



While you are waiting don't forget to mark your calendars for the

2013 WIPP Annual Leadership Meeting on October 9-10 at

the Hyatt Regency Washington on Capitol Hill



WIPP is a national nonpartisan public policy organization, advocating on behalf of over 1 million women-owned businesses representing 68 business organizations. WIPP provides timely economic policy information and identifies important trends and opportunities to its membership.

www.WIPP.org



Export NOW: Export Opportunities for Women-Owned Businesses under the WTO and Government Procurement Agreement

Anna Caroline Müller & Jean Heilman Grier

Overview

- **2 presenters – 2 parts**
- **Part 1:** Short Intro to the World Trade Organization (WTO) (Part 1.1) & the WTO's Government Procurement Agreement (GPA) (Part 1.2)
 - Presenter: Anna Caroline Müller, Legal Affairs Officer, WTO.
- **Part 2:** The US Government perspective
 - Presenter: Jean Grier, former Senior Procurement Negotiator at the Office of the U.S. Trade Representative.



PART 1



Introduction – Part 1

- **Short introduction to the WTO –**
 - What is it?
 - Why do you need to know about it?
- **The WTO's Government Procurement Agreement**
 - Short introduction and history of recent re-negotiation
 - Aims and goals and how these help you
 - Transparency provisions
 - Market access and reciprocity



PART 1.1

The WTO



What is the WTO?

- **A set of International Trade Rules agreed by Members through Negotiations**
 - General Agreement on Tariffs and Trade 1947/1994.
 - General Agreement on Trade in Services.
 - Trade-Related Aspects of Intellectual Property.
 - Dispute Settlement Understanding/Trade Policy Review Mechanism.
 - Plurilateral Agreements **such as the Government Procurement Agreement**
- 500 pages of (Agreements) Rules/23,000 pages of Schedules
- **An *intergovernmental* institution.**
- *You are represented by your Government (USTR).*



Aims of the WTO

- **Freer trade:**
 - Through negotiations/reciprocity.
 - Progressive liberalization, lower trade barriers (e.g. import duties).
- **Stability and Predictability:**
 - Improves business and investment environment.
 - Commitments at the WTO are binding.
- **Transparency requirements.**
- ***What does that mean for exporters:***
 - *Market access*
 - *Better information*



Main principles of the WTO

➤ **Non-discrimination:**

- Members cannot discriminate between trade partners.
- Exceptions: Free trade agreements, tariff preferences for developing-country products, GATT Article XX and trade remedies.

➤ **National treatment:**

- Imported and domestic goods should be treated equally.
- Applies only when the product or service has entered the market.

➤ **Overall: Fair competition, reciprocity**



Why do you need to know about it?

- Binding rules make your market access rights enforceable.
- Transparency gives you better information on export markets/competition that may occur.
- You are represented by your government: your government needs to know what your international trade interests are, what problems occur.



PART 1.2

The GPA



The Government Procurement Agreement (GPA)

- A plurilateral, reciprocity-based Agreement to facilitate transparent and non-discriminatory conditions of competition in public procurement markets internationally.
- Detailed provisions on aspects of the procurement process, to ensure transparent and open competition.
- Coverage/scope of application defined in schedules (entities, thresholds, goods/services)



Basic principles of the GPA

- non-discrimination,
- transparency, and
- procedural fairness
- Fair chance to compete in foreign procurement markets.



Benefits

- Market access opportunities.
- Safeguard against discrimination.
- Information on opportunities abroad.
- Bulwark against market closure.



Expanding Membership

- Agreement currently covers 42 WTO Members (15 “Parties”): EU and its 27 member States; US; Canada; Japan; Norway; Liechtenstein and Switzerland; Hong Kong, China; Iceland; Israel; Korea; Singapore; Chinese Taipei; Aruba; and Armenia. Recent new Parties: Chinese Taipei (2009), Armenia (2011).
- Accession initiated; substantive work pending or on-going: Albania, China, Georgia, the Kyrgyz Republic, Jordan, Moldova, Oman, Panama, Ukraine and New Zealand.
- Commitments to accede: Croatia, the former Yugoslav Republic of Macedonia, Mongolia, Montenegro, Russian Federation, Saudi Arabia and Tajikistan.



Recent re-negotiation

- 15 December 2011: political conclusion of the renegotiation.
- 30 March 2012: Formal adoption (GPA/113).
- Results:
 - Improved text: more user-friendly, modern (e-procurement).
 - More market access (+ 100 billion USD annually).



Transparency – Notices of intended/planned procurement

➤ How?

- Electronic medium (compulsory for central government entities), Free of charge, Single point of access or gateway electronic site
- Listed paper medium, Widely disseminated, Readily accessible

➤ What information?

- Information to necessary to obtain tender documentation, submit tenders
- Description of procurement, timing, options, procurement method
- Language and qualification requirements/selection criteria
- Indication that procurement is covered

➤ **Summary notice in English, French or Spanish.**

Transparency – Post award

➤ **Entities to**

- publish award notice within 72 days of award
- provide debrief opportunities for unsuccessful suppliers
- Maintain records, data for three years

➤ **Collection and reporting of statistics**

- Obligation to report statistics to the GPA Committee

➤ **Efforts to create integrated database.**

Market access and reciprocity

- The GPA provides significant market access opportunities!
- Estimated at \$U.S. 1.6 trillion (or 2.64% of world GDP) in 2008 (+ \$U.S. 100 billion through re-negotiation)!
- Reciprocity: Negotiations are a give & take, protectionist measures at home lead to less market access.



PART 2



Introduction – Part 2

- U.S. Government perspective on the importance of the GPA
- Government procurement open to foreign suppliers under the WTO Government Procurement Agreement (GPA)
- Export resources for U.S. businesses



U.S. Government Aim: Open Foreign Procurement Markets

- **U.S. Trade Policy Objective:** Open foreign government procurement to U.S. goods, services and suppliers.
- **WTO Government Procurement Agreement and bilateral agreements:** Ensure U.S. goods, services, and suppliers are given fair, non-discriminatory, and transparent opportunities to compete in foreign government procurement covered by the agreement
- **Responsibility for Negotiations:** Office of U.S. Trade Representative
- **Protection of Certain Procurement from Foreign Competition**



Procurement Covered under the WTO Government Procurement Agreement

➤ Parties to GPA

- Each GPA Party specifies the procurement to be opened to foreign suppliers
- Not expected to open all procurement
- Covered procurement reflects differences in government structures

➤ Elements of Coverage

- Thresholds
- Entities
- Goods
- Services
- Construction Services
- Exclusions/Reservations



GPA Appendix I Specifies Procurement Covered by Each Party

- **Annex 1:** Central government entities
- **Annex 2:** Sub-central government entities
- **Annex 3:** State-owned enterprises and other entities
- **Annex 4:** Goods
- **Annex 5:** Services
- **Annex 6:** Construction Services
- **Annex 7:** General Notes



GPA Thresholds

➤ **Annex 1 (Central Government Entities)**

- Goods and services: 130,000 Special Drawing Rights (SDRs)
- Construction services: 5,000,000 SDRs

➤ **Annex 2 (Sub-central Entities)**

- Goods and services: 200,000 to 355,000 SDR
- Construction services: 5,000,000 SDRs

➤ **Annex 3 (State-owned Entities and other Entities)**

- Goods and services: 200,000-400,000 SDRs
- Construction services: 5,000,000 SDRs



Central Government Entities Covered under GPA

- **Entity coverage** based on:
 - Positive lists (Most Parties specify entities covered)
 - Description/category coverage

- **Executive/Administrative**
 - Parties cover all or most central government entities

- **Judiciary**
 - Several Parties cover courts

- **Legislature**
 - Several Parties cover legislative bodies



Sub-Central Government Entities Covered under GPA

- **Scope of coverage depends on governmental structure:**
 - Federal systems
 - Centralized procurement systems, such as EU

- **Approaches to coverage of sub-central entities**
 - Positive list of specific entities
 - Coverage by definition or description (may include partial list of entities covered)

- **Several Parties have no sub-central entities**
 - Hong Kong China, Aruba and Singapore



Sub-Central Government Entities Covered under Positive Lists

- **Canada:** all provinces and territories
- **Israel:** 3 municipalities and local government corporation
- **Japan:** all prefectures plus designated (largest) cities
- **Korea:** 16 sub-central entities, including 6 large cities
- **Switzerland:** all cantons
- **Chinese Taipei:** 1 province and 2 cities
- **United States:** 37 states



Sub-Central Government Entities Coverage Based on Definitions or Descriptions

- **European Union (EU):** regional and local public authorities and other bodies governed by public law
- **Iceland:** local public authorities, including all municipalities and certain local public bodies
- **Liechtenstein:** local public authorities and certain local bodies governed by public law
- **Norway:** regional and local public authorities and bodies governed by public law



Coverage of State-Owned Enterprises and other Government Entities

- **Coverage by listing specific entities**
 - More than 130 entities: Japan
 - 10 to 25 entities: Canada, Israel, Korea, Singapore and United States
 - Less than 10 entities: Hong Kong China and Aruba

- **Coverage by sectors**
 - EU, Iceland, Liechtenstein, Norway and Switzerland
 - Sectors covered: electricity, urban transport, airports, ports and water



Coverage of Goods under GPA

➤ Basic Premise

- All goods are covered, unless explicitly excluded

➤ Exclusions

- War material and other defense-related goods are not covered under GPA



Coverage of Services, including Construction Services under GPA

- Variation in coverage of services across GPA Parties
- All Parties cover at least some portion of the Legal, Accounting, Market Research, and Architectural and Engineering Services category (CPC 86)
- Examples of services covered under this category include:
 - Public opinion polling services
 - General and financial management consulting services
 - Architectural and Engineering Services
 - Placement and supply services of personnel



Examples of Services Covered: EU

- EU offers broad coverage in the areas of:
 - Financial Services
 - Air Transport Services
 - Computer and Related Services
 - Sewage and Sanitation
 - Architectural and Engineering Services
 - Telecommunications (only on reciprocal basis)
 - Management Consulting
- Almost identical services are covered by Iceland, Liechtenstein and Norway



Examples of Services Covered: Japan

Broad coverage of the following services:

- Computer and Related Services (CPC 84)
- Air Transport Services (CPC 73)
- Education Services (CPC 92)
- Sewage and Sanitation (CPC 94)
- Management consulting services
- Leasing or rental services

Extensive coverage in the following categories:

- Freight Transport Agency Services
- Packaging Services
- Market Research and Polling Services
- Building Cleaning Services

Covers Architectural and Engineering Services, but has some exclusions for design services



Coverage of Architectural and Engineering Services

- Nearly all GPA Parties cover most Architectural, Engineering, and Other technical services
- Other subcategories under Architectural, Engineering, and Other technical services include:
 - Architectural services
 - Architectural design services
 - Engineering design services for the construction of civil engineering works
 - Urban planning and landscape architectural services



Coverage of Computer Services

- All GPA Parties cover all or nearly all Computer Services (CPC 84), except Aruba, which limits coverage to Computer Consultancy
- Computer Services falling under this category include:
 - Computer consultancy
 - Software implementation
 - Data Processing
 - Data Base Services
 - Maintenance and Repair of Office Machinery including Computers



Other Service Categories Broadly Covered under GPA

- Sewage and Sanitation (CPC 94)
- Agricultural, Mining, and Manufacturing Services (CPC 88)
- Business Services (CPC 87)
- Real Estate Services (CPC 82)
- Air Transport Services (CPC 73)
- Hotel and Restaurant Services (CPC 64)
- Repair Services (CPC 61, 63, and 886)



Annex 7: General Notes (Exclusions and Reservations)

- GPA Parties include exclusions and reservations in Annex 7.
- For example, the U.S. Government takes a reservation for set-asides for U.S. small businesses and women-owned and other minority-owned businesses. That means that such procurements are not open to foreign suppliers



Sources of Information on Procurement and Other Business Opportunities

- **Office of U.S. Trade Representative (USTR) website:**
<http://www.ustr.gov/trade-topics/government-procurement>
- **Information on exporting:** <http://export.gov>
- **International U.S. Commercial Service Offices** - to find information on specific countries: http://export.gov/worldwide_us/index.asp
- **U.S. Export Assistance Centers** - to find nearest office:
<http://export.gov/usoffices/index.asp>



Questions?

Presenter Name: Jean Heilman Grier

Title: Consultant on International Trade

Company: DJAGHE, LLC

Email: jhgrier@djaghe.com

Presenter Name: Anna Muller

Title: Legal Affairs Officer for the government procurement team of the WTO's Intellectual Property Division





Get Involved!

1-888-488-WIPP

www.WIPP.org

Questions? Contact WIPP Staff

Communications and Educational Programs Manager: AnnaKate Kallay ▪ akallay@wipp.org ▪ (415)434-4314

Program and Education Coordinator ▪ Michael Fravel ▪ mfravel@wipp.org ▪ (916)995-8645

WIPP Government Relations/ExportNOW ▪ John Stanford ▪ jstanford@madisonservicesgroup.com ▪ (202)626-8528