

U.S.- CAFTA-DR Free Trade Agreement

Government Procurement

Governments are typically the single largest purchasing entity in any market. Government procurement is generally ten to fifteen percent of a country's GDP. Total GDP of our six CAFTA-DR trading partners was approximately 121 billion in 2006, thus total procurement for these countries is estimated to be between \$12 billion and \$18 billion.

The Agreement's government procurement provisions provide for non-discriminatory access to the procurements of the largest purchasing entities in the CAFTA-DR region. These procurements include sectors where U.S. goods and services companies are very competitive, including aerospace, energy, health care, construction, environmental technology, and information communication technology (ICT).

The Agreement covers the purchases of most Central American and Dominican Republic central government entities, including key ministries and state-owned enterprises. Central America and the Dominican Republic also agreed to include a vast majority of their provinces and municipalities. U.S. companies are benefiting as Central American and the Dominican Republic governments implement CAFTA-DR's procurement obligations. Some of these benefits are highlighted below.

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- Under CAFTA-DR, Honduras has eliminated the requirement that foreign firms act through a local agent in order to participate in public tenders.
- The CAFTA-DR requires Parties to apply fair and transparent procurement procedures, and just as importantly, provide timely and effective bid review procedures, should there be concerns about award of the bids.
- Prior to CAFTA-DR, U.S. companies operating in the region complained of inadequate notification of pending procurements and vague bidding timetables. As a result of the Agreement, governments are obligated to keep tenders open for specified periods and publish notices of intended procurement.
- CAFTA-DR clarifies that build-operate-transfer contracts (BOTs) are within the scope of government procurement. BOTs act as financing vehicles for large-scale construction projects and the building or rehabilitation of public work facilities and figure prominently in CAFTA-DR governments' infrastructure financing plans. The Chile Free Trade Agreement was the first free trade agreement to contain this provision and it is significant that the CAFTA-DR also contains the guarantee that U.S. suppliers receive non-discriminatory and transparent treatment when competing for BOT contracts.
- In order to implement the Government Procurement Chapter, the Dominican Republic passed its first procurement law to ensure that procuring entities conduct procurements in a transparent and non-

Key CAFTA-DR Procurement Provisions

- Central American governments, ministries and departments cannot apply "buy local" provisions that discriminate against U.S. suppliers and the Dominican Republic is phasing out such provisions. Low-value contracts are excluded and the U.S. small business set-asides program remains unchanged.
- The CAFTA-DR imposes strong disciplines on government procurement procedures, such as requiring advance public notice of purchases, provision of information to all interested suppliers regarding covered procurement opportunities, as well as timely and effective bid review procedures.
- The chapter contains strong provisions to ensure integrity in government procurement. CAFTA-DR governments must also institute debarment procedures to weed out suppliers that engage in fraudulent or illegal actions related to procurement. This is a groundbreaking provision.

discriminatory manner.

- Guatemala is using its Internet-based open procurement system know as "Guatecompras" to ensure transparency in procurement actions. Additionally, the national procurement law was amended to provide arbitration for firms to dispute awards of tenders.