

U.S.-Panama Trade Promotion Agreement

GOVERNMENT PROCUREMENT

The government procurement provisions of the U.S.-Panama TPA guarantee non-discriminatory access for U.S. goods, services, and suppliers to a broad range of public sector entities in Panama, including the Panama Canal Authority. These procurements include areas where U.S. goods and services companies are very competitive, such as construction, environmental technology, aerospace, energy, health care (including pharmaceuticals), and information communication technology.

Importantly, the U.S.-Panama TPA secures national treatment and non-discrimination for US companies seeking to bid on procurements conducted by the Panama Canal Authority, including the Canal's expansion. The \$5.25 billion expansion of the Panama Canal will offer significant opportunities for U.S. businesses to supply goods, services, and construction services. For example, the construction of the third set of locks alone will represent approximately 60 percent of the estimated \$5.25 billion project. The expansion, which is expected to be completed in 2014, will widen the Canal to allow larger ships easier access between the Atlantic and Pacific Oceans.

Key U.S.-Panama TPA Procurement Provisions

- U.S. firms are guaranteed non-discriminatory access and a fair and transparent process to sell goods and services to major Panamanian government enterprises, including the Panama Canal Authority.
- The Agreement excludes low-value contracts and set-asides on behalf of U.S. small and minority-owned businesses.
- The U.S.-Panama TPA imposes strong disciplines on government procurement procedures, including requiring advance public notice of purchases and provision of information to all interested suppliers regarding covered procurement opportunities, as well as timely and effective domestic review procedures.
- The Agreement contains strong provisions to ensure integrity in government procurement. The Panamanian government must maintain a debarment system to declare ineligible suppliers that engage in fraudulent or illegal actions related to procurement.

The Agreement covers purchases of Panamanian central government entities, including all key ministries, and significant government enterprises, in particular, the Panama Canal Authority. Panama also agreed to cover its regional governments. Governments are typically the single largest purchasing entity in any market. Government procurement is generally ten percent to 15 percent of a country's GDP. Panama's total GDP in 2007 was \$19.7 billion, thus total procurement is estimated to be between \$2 billion and \$3 billion, not counting the multi-billion dollar expansion of the Panama Canal. U.S. companies will immediately benefit as the government of Panama brings its laws and practices into compliance with the procurement obligations set forth in the US-Panama TPA. The U.S.-Panama TPA requires the use of fair and transparent procurement procedures, and the availability of timely and effective domestic review procedures to address complaints about the award of tenders.

The U.S.-Panama TPA clarifies that build-operate-transfer contracts (BOTs) are within the scope of the government procurement obligations in the Agreement. BOTs act as financing vehicles for large-scale construction projects and the building or rehabilitation of public work facilities.