

U.S.-Colombia Trade Promotion Agreement

GOVERNMENT PROCUREMENT

The government procurement provisions of the U.S.-Colombia TPA guarantee non-discriminatory access to the procurements of the largest purchasing entities in Colombia. These procurements include areas where U.S. goods and services companies are very competitive, such as aerospace, energy, health care (including pharmaceuticals), construction, environmental technology, and information communication technology (ICT).

The Agreement covers purchases of most Colombian central government entities, including all key ministries and significant state-owned enterprises. Colombia also agreed to include all of its regional governments. Governments are typically the single largest purchasing entity in any market. Government procurement is generally 10 percent to 15 percent of a country's GDP. Colombia's total GDP in 2007 was over \$171 billion¹, thus total procurement is estimated to be between \$17.1 billion and \$25.6 billion. U.S. companies will immediately benefit as the Colombian government brings its laws and practices into compliance with the procurement obligations set forth in the US-Colombia TPA. Even in those public procurements for which U.S. firms are already granted national treatment, some still complain of mismanagement and lack of transparency in the bid process. The U.S.-Colombia 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.-Colombia TPA also covers important state-owned enterprises such as ECOPETROL (national oil company), ISS (healthcare provider) and ADPOSTAL (postal service). The U.S.- Colombia TPA also secures transparency and non-discrimination for U.S. companies seeking to bid on procurements conducted by three significant Colombian entities: ISA (electricity transmission), ISAGEN (electricity generation) and Colombia Telecomunicaciones (telecom). All of these are major procurers that will be bound by the procurement obligations of the Agreement, enabling U.S. companies to compete on a level playing field.

The U.S.-Colombia 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. The U.S.-Chile Free Trade Agreement was the first free trade agreement to include this clarification and it is significant that the U.S.-Colombia TPA also contains the guarantee that U.S. suppliers will receive non-discriminatory and transparent treatment when competing for BOT contracts.
