

Alberta Position for the World Trade Organization Negotiations on Government Procurement

Following are Government of Alberta's views on matters to be addressed in the World Trade Organization (WTO) negotiations on government procurement expected to get underway in late 1999. The Alberta roundtable held in January 1999 and consultations with Alberta stakeholders held since the roundtable support the views expressed. These views reinforce long-standing Government of Alberta policy on matters related to government procurement.

World Trade Organization - Agreement on Government Procurement

Sub-Central Coverage

From Alberta's perspective, the key issue to be addressed in the negotiations is the elimination of discriminatory measures and practices that distort open procurement (e.g., U.S. procurement programs such as "Buy America" and Small Business Set-Asides). Alberta continues to hold to the view that consideration should not be given to expanding coverage to include sub-central procurement in Canada unless there is significant movement by the U.S. to eliminate or greatly circumscribe its use of discriminatory procurement programs.

Alberta supports the federal government's long-standing position on sub-central coverage. In World Trade Organization (WTO) *Agreement on Government Procurement* (AGP) negotiations, Canada has stated emphatically that it did not undertake commitments regarding sub-central coverage - that such coverage would be based on commitments received from the provinces and that it could not be formulated or imposed by the federal government. The sub-central offers received from the provinces have been linked to achieving progress on U.S. set-asides. To reiterate, it is Alberta's view that there should be no offer by Canada on sub-central coverage without the consent of the provinces. Further, Alberta's consent on sub-central coverage is contingent upon acceptable movement by the U.S. on eliminating or circumscribing its discriminatory procurement programs.

Market Access Study

Alberta supports the federal government's proposal to conduct a broad-based, province-by-province market access study. Roundtable participants assisted in the determination of elements of the study and key markets to be addressed. In the study, selected businesses will be asked for priority markets by country, baseline data on sales, and formal and informal impediments to sales. The results of the study will provide useful background data for the negotiations. Based on the discussion in the roundtable, it is anticipated that a number of Alberta companies would be interested in participating.

Simplification

Alberta supports efforts to simplify and streamline the WTO AGP with a view to making the Agreement more "user-friendly" and more reflective of modern procurement practices.

Alberta believes that statistical reporting is important and that other Parties to the WTO AGP should be strongly encouraged to complete statistical reports, starting with the 1996 report. In addition, Canada should pursue the simplification of reporting procedures. Alberta agrees to the recent federal proposal to make the reports public, and to press for the elimination of below threshold reporting. It is also agreed that, wherever feasible, reporting should include a breakdown of goods and services. Such information could be very helpful to suppliers in developing market access strategies.

With respect to statistical reporting as relates to sub-central (provincial) governments, Alberta's view, as already indicated, is that there should be no consideration of sub-central coverage until there is movement by the U.S. on discriminatory practices, such as small business set-asides. This applies to statistical information as well. However, as a hypothetical question, assuming that the current issues

with sub-central coverage can be resolved at some time in the future, Alberta would agree that sub-central reports could be filed on total value and number of procurements covered. A further breakdown by goods and services, as suggested for central government entities, would be difficult for sub-central governments, because, for the most part, this information is not available. Overall, Alberta agrees with the advice received at the roundtable, that it is premature to even contemplate sub-central reporting at this time; "there is no point in requiring sub-central data if countries are having trouble compiling data at the central level".

Alberta does not believe the current 40-day bid period can be shortened, notwithstanding electronic tendering. Nor, can the current paper-based bidding system be dropped at this time. We do believe that more use could be made of electronic catalogues.

Multilateral Agreement on Transparency in Government Procurement

Alberta is generally supportive of Canada's participation in a multilateral agreement on transparency in government procurement as an important step in a long-term process of increasing market access in government procurement, as long as it is clear that the transparency negotiations and any potential agreement are on the same basis as the WTO AGP, it would apply only to the federal government. Alberta does not support coverage of provincial entities in the proposed transparency agreement.

Clearly, it is within the purview of the federal government to make decisions related to coverage of federal departments, agencies, and Crown corporations under a transparency agreement. Similarly, it is within the purview of provincial governments to make such decisions as relates to provincial entities. At this time, Alberta does not believe that provincial departments, agencies and Crown corporations should be covered under the proposed transparency agreement. This view is confirmed through consultations with Alberta stakeholders. Before further consideration could be given to coverage of provincial government entities, more study would be required both in terms of market access interests of the private sector and the administrative costs associated with coverage under a transparency agreement. Also, if negotiations in the WTO AGP resulted in significant movement by the U.S. on its discriminatory procurement programs, this could potentially influence Alberta's view on sub-central coverage in the proposed transparency agreement.

As agreed at the roundtable, the following elements should be included in a transparency agreement: publishing of procurement policies and procedures, publishing of notices of proposed procurements, and inclusion of evaluation criteria in bid documents. In addition, the following are key elements required for enforcement: publishing of reasons for sole source contracting, publishing notices of contract awards, bid challenge provisions for suppliers, and dispute resolution.

General Agreement on Trade in Services

In order to avoid confusion, any coverage or any offer Canada might make under the *General Agreement on Trade in Services* (GATS) regarding government procurement should be consistent with (or identical to) the offer made under the WTO AGP. Once again, any decisions related to coverage of provincial entities must rest with provincial governments.