



BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

EXECUTIVE OFFICE OF THE PRESIDENT

Office of the United States Trade Representative

Request for Comment on the Costs and Benefits to U.S. Industry of U.S. International Government Procurement Obligations for Report to the President on “Buy American and Hire American”

AGENCIES: International Trade Administration, Department of Commerce; Office of the United States Trade Representative, Executive Office of the President

ACTION: Request for comments.

SUMMARY: Section 3(e) of the Presidential Executive Order on Buy American and Hire American directs the Secretary of Commerce and the United States Trade Representative to assess the impacts of all United States free trade agreements and the World Trade Organization Agreement on Government Procurement (GPA) on the operation of Buy American Laws, including their impacts on the implementation of domestic procurement preferences. The Executive Order can be found here: <https://www.whitehouse.gov/the-press-office/2017/04/18/presidential-executive-order-buy-american-and-hire-american>

In response to this Executive Order, the Department of Commerce (Department) and the Office of the United States Trade Representative (USTR) are conducting industry outreach in order to better understand how the U.S. government procurement obligations under all U.S. free trade agreements and the GPA affect U.S. manufacturers’ and suppliers’ access to and participation in

the domestic government procurement process. In addition, because reciprocal access to trading partners' markets is an important motivation for including government procurement obligations in U.S. free trade agreements and for the United States' membership in the GPA, the Department and the USTR are also seeking information about the costs and benefits of these obligations to U.S. manufacturers and suppliers competing in U.S. trading partners' government procurement markets. The trading partners with which the United States has international government procurement obligations are: Armenia, Aruba, Australia, Bahrain, Canada, Chile, Chinese Taipei (Taiwan), Colombia, Costa Rica, Dominican Republic, El Salvador, the European Union (which includes Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom), Guatemala, Honduras, Hong Kong, Iceland, Israel, Japan, the Republic of Korea, Liechtenstein, Mexico, the Republic of Moldova, Montenegro, Morocco, New Zealand, Nicaragua, Norway, Oman, Panama, Peru, Singapore, Switzerland, and Ukraine. The Secretary of Commerce and the United States Trade Representative are required to conclude the assessment called for under Section 3(e) by September 15, 2017. Responses to this notice will be considered in the assessment as well as in the final report of findings and recommendations to strengthen the implementation of Buy American Laws that the Secretary of Commerce will submit to the President of the United States by November 24, 2017.

DATES: September 18, 2017 at 11:59 pm Eastern Daylight Time (EDT): Deadline for interested persons to submit written comments.

ADDRESSES: You may submit responses to the questions below by one of the following methods:

a) **Electronic Submission:** Submit all electronic comments via the Federal e-Rulemaking Portal at <http://www.regulations.gov>. The materials in the docket will not be edited to remove identifying or contact information, and the Department cautions against including any information in an electronic submission that the submitter does not want publicly disclosed. Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF formats only. Comments containing references, studies, research, and other empirical data that are not widely published should include copies of the referenced materials. Please do not submit additional materials. If you want to submit a comment with business confidential information that you do not wish to be made public, submit the comment as a written/paper submission in the manner detailed below.

b) **Written/Paper Submissions**

Send all written/paper submissions to: Adam Boltik, International Trade Administration, Department of Commerce, 1401 Constitution Ave. NW, Room 3043, Washington, DC 20230; Submissions of “**Business Confidential Information**”: Any submissions containing “business confidential information” must be delivered in a sealed envelope marked “confidential treatment requested” to the address listed above. Please provide an index listing the document(s) or information that the submitter would like the Department to withhold. The index should include information such as numbers used to identify the relevant document(s) or information, document title and description, and relevant page numbers and/or section numbers within a document. Provide a statement explaining the submitter's grounds for objecting to disclosure of the information to the public. The Department also requests that submitters of business confidential information include a non-confidential version (either redacted or summarized) of those confidential submissions, which will be available for public viewing and

posted on <https://www.regulations.gov>. In the event that the submitter cannot provide a non-confidential version of its submission, the Department requests that the submitter post a notice in the docket stating that it has provided the Department with business confidential information. Should a submitter fail to docket either a non-confidential version of its submission or to post a notice that business confidential information has been provided, the Department will note the receipt of the submission on the docket with the submitter's organization or name (to the degree permitted by law) and the date of submission.

FOR FURTHER INFORMATION, CONTACT: For questions about this notice contact: Adam Boltik or Kate Mellor at the U.S. Department of Commerce, International Trade Administration, at (202) 482-0357 or (202) 482-5456. Please direct media inquiries to the Department of Commerce Office of Public Affairs at (202) 482-4883, or publicaffairs@doc.gov.

SUPPLEMENTARY INFORMATION:

Topics on which the Secretary of Commerce and the U.S. Trade Representative Seek

Information: To assist the Department and USTR in conducting the assessment of how the U.S. government procurement obligations under all U.S. free trade agreements and the GPA affect U.S. manufacturers' and suppliers' access to and participation in the domestic and U.S. trading partners' government procurement markets, commenters should submit information addressing any or all of the following questions. Please identify, where possible, the questions your comments are intended to address.

Background: While EO 13788 is focused on the acquisition of goods, products, or materials in U.S. federal government procurement, the access provided by U.S. free trade agreements and the GPA in foreign markets to U.S. manufacturers and suppliers is based on reciprocity. Discussing

the impact of these agreements on the access that U.S. goods have in foreign government procurement markets helps inform whether or not the access is truly reciprocal.

In responding to the questions below, commenters should consider the impact for participating in U.S. federal and/or foreign government procurement markets with respect to:

- Business opportunities that are made available;
- Economic incentives that trade agreements and Buy American Laws provide;
- How trade agreements impact business competitiveness, or increase or decrease competition, in government procurement opportunities;
- How trade agreements affect companies' (prime contractors') supply chain and sourcing decisions for goods;
- How Buy American or similar foreign requirements increase or decrease companies' (prime contractors') competitiveness in government procurement opportunities;
- Administrative compliance costs tied to Buy American and similar government procurement policies; and
- Additional costs relating to providing or otherwise proving the country of origin of goods provided.

The questions below are focused on gathering information on the access to U.S. federal and/or foreign government procurement markets for goods that are manufactured in the United States, regardless of the nationality or location of the supplier. Additionally, this includes goods that are furnished to the U.S. federal and/or foreign government that may be a part of a contract for services, such as products that may be provided to the government as part of a contract for IT services, where Buy American Laws might otherwise apply.

Respondents may organize their submissions in any manner, and all responses that comply with the requirements listed in the **DATES** and **ADDRESSES** sections of this notice will be considered.

1. What is your company's experience with respect to U.S. federal and/or foreign government procurement, either as prime contractor or a subcontractor? While any experience is welcome, please identify experiences within the past 5 years.
 - a. Have you bid on U.S. federal contracts? How many?
 - b. Were you awarded any U.S. federal contracts? How many?
 - c. What share of annual revenue from your U.S. operations was from U.S. federal contracts?
 - d. Have you bid on foreign government contracts? How many? List the countries of five largest bids.
 - e. Were you awarded any foreign government contracts? How many? List the countries of five largest awards.
 - f. What share of annual revenue from your U.S. operations was from foreign government contracts?
 - g. List the industries in which your company was awarded U.S. federal or foreign government contracts. Indicate NAICS code(s) if possible.
2. Please describe in a few sentences how your company's decisions to bid on or supply U.S. federal contracts (as a prime or subcontractor or company that produces goods used in procurements) are affected by U.S. free trade agreements and the WTO GPA which allow equal participation by companies from U.S. trading partners.

3. Please describe in few sentences your company's experience as a prime or subcontractor in bidding on national government procurements in countries with which the U.S. has a trade agreement with government procurement obligations. What are your three greatest challenges? (These countries are: Armenia, Aruba, Australia, Bahrain, Canada, Chile, Chinese Taipei (Taiwan), Colombia, Costa Rica, Dominican Republic, El Salvador, the European Union (which includes Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and the United Kingdom), Guatemala, Honduras, Hong Kong, Iceland, Israel, Japan, the Republic of Korea, Liechtenstein, Mexico, the Republic of Moldova, Montenegro, Morocco, New Zealand, Nicaragua, Norway, Oman, Panama, Peru, Singapore, Switzerland, and Ukraine.) How does this differ from your experience competing for bids in markets in countries with which the U.S. does not have a trade agreement with government procurement obligations?
4. What is the average U.S. content of goods that your company supplies to the U.S. federal government?
5. What is the average U.S. content of goods that your company supplies to foreign governments?
6. What are the three principal barriers to having 100% domestic content in the goods that you produce for U.S. federal or foreign governments?
7. Please describe in a few sentences how trade agreements with government procurement obligations affect strategic decisions your company makes about production and supply

chains for government procurements as well as for commercial (private sector) customers.

8. Please describe in a few sentences any experience your company has had with conflict between Buy American or similar foreign requirements and U.S. free trade agreement or WTO GPA requirements, including whether and how the conflict was resolved.
9. Please describe in a few sentences whether the presence of Buy American or similar foreign requirements affected positively or negatively your company's ability to bid and/or win contracts for U.S. or foreign government procurement.

Dated: August 14, 2017.

John Liuzzi,

Director,

Office of Trade Agreements Negotiations and Compliance,

International Trade Administration.

Dawn Shackleford,

Assistant USTR for WTO and Multilateral Affairs,

Office of the US Trade Representative

[FR Doc. 2017-17553 Filed: 8/17/2017 4:15 pm; Publication Date: 8/21/2017]