

**Coalition of Services Industries (CSI) Submission:
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”
Document number: USTR 2017-17553**

The Coalition of Services Industries (CSI) appreciates the opportunity to submit pre-hearing comments to the U.S. Department of Commerce and the Office of the United States Trade Representative (USTR) to assist in assessing the importance of U.S. commitments on government procurement in free trade agreements and in the World Trade Organization (WTO) Agreement on Government Procurement (GPA).

CSI, established in 1982, is the leading industry association devoted exclusively to helping America’s services businesses, increasingly digitally enabled services, and workers compete in world markets. CSI member companies represent a broad spectrum of the U.S. services sector, including distribution services, express delivery, financial services, media and entertainment, telecommunications, information and communication technology services, and professional services. These services are a critical enabler for U.S. economic growth.

Benefits of the World Trade Organization (WTO) Agreement on Government Procurement (GPA)

Established in 1994, the WTO GPA laid the foundation for government procurement obligations in the subsequent trade agreements of WTO members. The GPA established open, fair, and transparency conditions for competition for the private sectors of these member countries in their government procurement markets. Currently, 47 members of the WTO are parties to the agreement, and 29 others are observers – 9 of whom have begun the process of joining the agreement.ⁱ The 1994 GPA went into effect in 1996, and the Revised Agreement – a natural extension of the 1994 agreement – entered into force in 2014.ⁱⁱ

The GPA’s long-standing benefits include outward foreign affiliate service sales, fostering services imports, and overall promotion of inter-OECD trade. Moreover, the estimated value of procurement activities from GPA parties is \$1.7 trillion annually.ⁱⁱⁱ In addition, for the United States, countries that are not signatories of the GPA do not have access to the U.S. procurement market, valued at \$800 billion, thus maintaining the incentive for outside countries to join and open their procurement markets to U.S. firms.^{iv}

The Revised Agreement streamlined and updated many of the original text’s provisions, considered developments such as electronic tools, clarified the special and differential treatment provisions (S&D), and created a new requirement to prevent corrupt practices.^v Parties also committed to periodic revision of the Revised Agreement to continue to review and eliminate discriminatory measures in order to achieve maximum coverage.^{vi} In terms of services, the Revised Agreement added over 50 categories of services in the commitments of Aruba, Hong Kong, Israel, Japan, Korea, Singapore, and Switzerland; and included complete coverage of the telecommunications sector in several parties.^{vii} Further, the revised GPA granted access to 150 additional central government entities.^{viii}

In sum, the GPA includes the following beneficial provisions:

- National treatment and non-discrimination for the suppliers of parties to the Agreement for the procurement of goods and services,
- Detailed procurement procedures to increase transparency and competitiveness,
- Increased coverage of commitments across levels of government.
- Application of the WTO Dispute Settlement Understanding, and
- Procedures providing for review of the Agreement, including extension of coverage and elimination of remaining discriminatory measures through further negotiations.^{ix}

Benefits of Reciprocal Government Procurement Commitments in FTAs

When trade agreements open foreign government procurement markets, they provide significant opportunities for U.S. services companies and American workers. U.S. services providers, particularly in the financial services and information technology services and products sectors, hold significant shares of foreign government procurement contracts. When U.S. service suppliers are able to participate in foreign government procurement markets, they can boost local sales and exports, and support better, higher-paying U.S. jobs.^x

In 2016, the United States held over 40 percent (or \$128.4 billion) of the global IT procurement market, which includes data center systems, devices, IT services, and software, and covers all IT procurements at every government level. Looking specifically at the \$170 billion market that was outside of the United States, close to 80%, or \$134.7 billion, was in 126 countries designated as compliant with the Trade Agreements Act (TAA). These countries include GPA signatories, FTA countries, least developed countries, and Caribbean Basin countries.^{xi}

There is a misconception that foreign companies are heavy beneficiaries of U.S. procurement. The raw numbers from the Federal Procurement Data System confirms that, across the entire federal government, just two percent of all contracts were secured by foreign-headquartered companies in FY 2016. Of this portion, nearly all of the “foreign” procurements were won and fulfilled by the U.S. affiliates of British or other European firms that employ American workers. The case for reciprocal government procurement obligations gets stronger as one looks at the 50 largest contractors to the United States – in FY 2016, just one of the 50 largest contractors to the United States was a foreign-headquartered firm.^{xii}

To further reflect the importance of such government procurement obligations within U.S. free trade agreements, we examine both the North American Free Trade Agreement (NAFTA) and the U.S.-Korea Free Trade Agreement (KORUS) to elaborate on the benefits which U.S. services suppliers and firms as a whole receive from such established provisions.

North American Free Trade Agreement (NAFTA)

NAFTA has been critical in permitting U.S. services providers to participate in government procurement opportunities, where companies have been able to bid and successfully secure contracts with government entities in both Canada and Mexico. For example, nearly 80 percent

of all Mexican government employees are insured by a U.S. services supplier. U.S. firms also supply pensions and auto insurance to the Mexican government. U.S. information technology firms also benefit from the NAFTA procurement provisions. As previously noted, a very slim margin of U.S. contracts have gone to foreign-headquartered firms as of 2016, approximately 2 percent, and when assessing this figure for Canada and Mexico's share, it is even less significant (with Mexico virtually having near zero percent of U.S. contracts).^{xiii} Thus, reciprocal access for government contracts in trade agreements is directly to the benefit of U.S. services firms and has provided the United States another valuable means of expanding cross-border services and domestic employment and economic growth.

Further, NAFTA has provided competitive opportunities for U.S. services providers to take advantage of their supply chains to supply the U.S. government. The procurement chapter in NAFTA also provides an important institutional framework for U.S. services providers, including in the transparent and open bid procedures in all three governments. Based on the plurilateral WTO GPA, this agreement should be seen as a contributor to anti-corruption efforts.

U.S.-Korea Free Trade Agreement (KORUS)

The Republic of Korea ("Korea") continues to be a growth market for U.S. services exports and investment, as the U.S.-Korea Free Trade Agreement (also known as KORUS) has provided generous opportunities for growth in services trade and investment. Since its implementation in March 2012, KORUS has been instrumental in reinforcing the bilateral trading relationship and strength of the U.S. services industries in Korea, including through increased market access and greater regulatory transparency. Between 2011 and 2015, levels of trade in services across the board grew by an average 3.3 percent, with a greater 15 percent increase in U.S. exports of telecommunications and computer and information services.^{xiv}

A vital piece of this are the government procurement obligations which build and expand upon those that the United States and Korea had already committed to under the WTO GPA, which first opened Korea's government procurement market to U.S. firms. Beyond the GPA, KORUS allows U.S. firms to bid on government contracts on a level-playing field with Korean firms, thus allowing for fair and equal access to Korea's estimated \$100 billion government procurement market. The FTA also lowered the contract threshold on which U.S. companies could bid, from \$200,000 to \$100,000.^{xv} KORUS expanded U.S. firms' access to additional central government agencies from those opened under the GPA, including contracts from the South Korean Broadcasting Commission, a particular benefit for U.S. media services firms. Enabling smoother and more transparent bidding procedures is also a noteworthy component of KORUS, implementing the use of electronic procurement tools, which directly benefits small U.S. businesses looking to increase exports by easing the bidding process for Korean government contracts.^{xvi}

ⁱ World Trade Organization, "The Plurilateral Agreement on Government Procurement," https://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm.

ⁱⁱ World Trade Organization, "Coverage Schedules," https://www.wto.org/english/tratop_e/gproc_e/gp_app_agree_e.htm.

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- iii World Trade Organization, “The Plurilateral Agreement on Government Procurement,” https://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm.
- iv Jean Grier, “Market Access Opportunities Under the GPA,” U.S. Trade Representative, https://www.wto.org/english/tratop_e/gproc_e/symp_feb10_e/grier_3_e.pdf, 3.
- v World Trade Organization, “Text of the Agreement,” https://www.wto.org/english/tratop_e/gproc_e/gpa_1994_e.htm.
- vi World Trade Organization, “The Plurilateral Agreement on Government Procurement,” https://www.wto.org/english/tratop_e/gproc_e/gp_gpa_e.htm.
- vii Office of the U.S. Trade Representative, “Benefits For The United States From The Revised WTO Government Procurement Agreement,” December 2011, <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2011/december/benefits-united-states-revised-wto-government-procur>.
- viii Office of the U.S. Trade Representative, “Benefits For The United States From The Revised WTO Government Procurement Agreement,” December 2011, <https://ustr.gov/about-us/policy-offices/press-office/fact-sheets/2011/december/benefits-united-states-revised-wto-government-procur>.
- ix World Trade Organization, “Text of the Agreement,” https://www.wto.org/english/tratop_e/gproc_e/gpa_1994_e.htm.
- x Office of the U.S. Trade Representative, “Government Procurement Benefits in the U.S.-South Korea Trade Agreement,” <https://ustr.gov/uskoreaFTA/procurement>.
- xi IT procurement fact sheet.
- xii Federal Procurement Data System, <https://www.fpds.gov/>.
- xiii Federal Procurement Data System, <https://www.fpds.gov/>.
- xiv Bureau of Economic Analysis, “Table 2.3. U.S. Trade in Services, by Country or Affiliation and by Type of Service,” Korea, <https://www.bea.gov/itable/>
- xv Office of the U.S. Trade Representative, “Government Procurement Benefits in the U.S.-South Korea Trade Agreement,” <https://ustr.gov/uskoreaFTA/procurement>.
- xvi Office of the U.S. Trade Representative, “Government Procurement Benefits in the U.S.-South Korea Trade Agreement,” <https://ustr.gov/uskoreaFTA/procurement>.