

## **Chapter Nine**

### **Government Procurement**

#### **Objectives**

The objectives of this Chapter are to recognize the importance of conducting government procurement in accordance with the fundamental principles of openness, transparency, and due process; and to strive to provide comprehensive coverage of procurement markets by eliminating market access barriers to the supply of goods and services, including construction services.

#### **Article 9.1: Scope and Coverage**

1. This Chapter applies to any measure adopted or maintained by a Party relating to procurement by an entity listed in Annex 9.1:

(a) by any contractual means, including purchase and rental or lease, with or without an option to buy, build-operate-transfer contracts, and public works concession contracts; and

(b) subject to the conditions specified in Annex 9.1.

2. This Chapter does not apply to:

(a) non-contractual agreements or any form of assistance provided by a Party or a state enterprise, including grants, loans, equity infusions, fiscal incentives, subsidies, guarantees, cooperative agreements, government provision of goods and services to persons or to a regional or local level of government, and purchases for the direct purpose of providing foreign assistance;

(b) purchases funded by international grants, loans, or other assistance, where the provision of such assistance is subject to conditions inconsistent with the provisions of this Chapter;

(c) hiring of government employees and related employment measures; and

(d) acquisition of fiscal agency or depository services, liquidation and management services for regulated financial institutions, and sale and distribution services for government debt.

3. Each Party shall ensure that its procuring entities listed in Annex 9.1 comply with this Chapter in conducting procurement covered by this Chapter.

4. Where an entity awards a contract that is not covered by this Chapter, nothing in this Chapter shall be construed to cover any good or service component of that contract.

5. No entity may prepare, design, or otherwise structure or divide, in any stage of the procurement, any procurement in order to avoid the obligations of this Chapter.

6. Nothing in this Chapter shall prevent either Party from developing new procurement policies, procedures, or contractual means, provided they are not inconsistent with this Chapter.

## **Article 9.2: General Principles**

### *National Treatment and Non-Discrimination*

1 With respect to any measure governing procurement covered by this Chapter, each Party shall accord to the goods and services of the other Party, and to the suppliers of the other Party of such goods and services, treatment no less favorable than the most favorable treatment the Party accords to its own goods, services, and suppliers.

2. With respect to any measure governing procurement covered by this Chapter, neither Party may:

- (a) treat a locally established supplier less favorably than another locally established supplier on the basis of degree of foreign affiliation or ownership; or
- (b) discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of the other Party.

### *Determination of Origin*

3. For purposes of paragraphs 1 and 2, determination of the origin of goods shall be made on a non-preferential basis.

### *Offsets*

4. An entity shall not consider, seek, or impose offsets at any stage of a procurement.

### *Measures Not Specific to Procurement*

Paragraphs 1 and 2 do not apply to measures respecting customs duties or other charges of any kind imposed on or in connection with importation, the method of levying such duties and charges or other import regulations, including restrictions and formalities, or measures affecting trade in services other than measures specifically governing procurement covered by this Chapter.

**Article 9.3: Publication of Procurement Measures**

Each Party shall promptly publish:

- (a) its measures of general application specifically governing procurement covered by this Chapter; and
- (b) any changes in such measures in the same manner as the original publication.

**Article 9.4: Publication of Notice of Intended Procurement**

1 For each procurement covered by this Chapter, an entity shall publish in advance a notice inviting interested suppliers to submit tenders for that procurement (“notice of intended procurement”), except as provided in Article 9.9(2). Each such notice shall be accessible during the entire period established for tendering for the relevant procurement.

2 Each notice of intended procurement shall include a description of the intended procurement, any conditions that suppliers must fulfill to participate in the procurement, the name of the entity issuing the notice, the address where suppliers may obtain all documents relating to the procurement, the time limits for submission of tenders, and the dates for delivery of the goods or services to be procured.

**Article 9.5: Time Limits for the Tendering Process**

1 An entity shall prescribe time limits for the tendering process that allow sufficient time for suppliers to prepare and submit responsive tenders, taking into account the nature and complexity of the procurement. An entity shall provide no less than 30 days between the date on which it publishes the notice of intended procurement and the deadline for submitting tenders.

2. Notwithstanding paragraph 1, where there are no qualification requirements for suppliers, entities may establish a time limit of less than 30 days, but in no case less than 10 days, in the following circumstances:

- (a) where the entity has published a notice containing the information specified in Article 9.4(2) at least 30 days and not more than 12 months in advance;
- (b) in the case of the second or subsequent publications of notices for procurement of a recurring nature;
- (c) where an entity procures commercial goods or services that are sold or offered for sale to, and customarily purchased and used by, nongovernmental buyers for non-governmental purposes; or

- (d) where an unforeseen state of urgency duly substantiated by the entity renders impracticable the time limits specified in paragraph 1.

#### **Article 9.6: Information on Intended Procurements**

1 An entity shall provide interested suppliers tender documentation that includes all the information necessary to permit suppliers to prepare and submit responsive tenders. The documentation shall include all criteria that the entity will consider in awarding the contract, including all cost factors, and the weights or, where appropriate, the relative values, that the entity will assign to these criteria in evaluating tenders.

2 Where an entity does not publish all the tender documentation by electronic means, the entity shall, on request of any supplier, promptly make the documentation available in written form to the supplier.

3. Where an entity, during the course of a procurement, modifies the criteria referred to in paragraph 1, it shall transmit all such modifications in writing:

- (a) to all suppliers that are participating in the procurement at the time the criteria are modified, if the identities of such suppliers are known, and in all other cases, in the same manner as the original information was transmitted; and
- (b) in adequate time to allow such suppliers to modify and resubmit their tenders, as appropriate.

#### **Article 9.7: Technical Specifications**

1 An entity shall not prepare, adopt, or apply any technical specification with the purpose or the effect of creating unnecessary obstacles to trade between the Parties.

2. Any technical specification prescribed by an entity shall be, where appropriate:

- (a) specified in terms of performance requirements rather than design or descriptive characteristics; and
- (b) based on international standards, where applicable, otherwise on national technical regulations, recognized national standards, or building codes.

3 An entity shall not prescribe technical specifications that require or refer to a particular trademark or trade name, patent, design or type, specific origin or producer or supplier unless there is no sufficiently precise or intelligible way of otherwise describing the procurement requirements and provided that, in such cases, words such as “or equivalent” are included in the tender documentation.

4 An entity shall not seek or accept, in a manner that would have the effect of precluding competition, advice that may be used in the preparation or adoption of any technical specification for a specific procurement from a person that may have a commercial interest in that procurement.

5 For greater certainty, this Article is not intended to preclude a Party from preparing, adopting, or applying technical specifications to promote the conservation of natural resources.

### **Article 9.8: Conditions for Participation**

1 Where an entity requires suppliers to satisfy registration, qualification, or any other requirements or conditions for participation (“conditions for participation”) in order to participate in a procurement, the entity shall publish a notice inviting suppliers to apply for participation. The entity shall publish the notice sufficiently in advance to provide interested suppliers sufficient time to prepare and submit applications and for the entity to evaluate and make its determinations based on such applications.

2. Each entity shall:

- (a) limit any conditions for participation in a procurement to those that are essential to ensure that the potential supplier has the legal, technical, and financial capacity to fulfill the requirements and technical specifications of the procurement;
- (b) base qualification decisions solely on the conditions for participation that it has specified in advance in notices or tender documentation; and
- (c) recognize as qualified all suppliers of the other Party that meet the requisite conditions for participation in a procurement covered by this Chapter.

3. Entities may establish publicly available lists of suppliers qualified to participate in procurements. Where an entity requires suppliers to qualify for such a list in order to participate in a procurement, and a supplier that has not yet qualified applies to be included on the list, the entity shall promptly start the qualification procedures for the supplier and shall allow the supplier to participate in the procurement, provided there is sufficient time to complete the procedures within the time period established for tendering.

4. No entity may impose the condition that, in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by an entity of that Party or that the supplier has prior work experience in the territory of that Party. An entity shall judge a supplier’s financial and technical capacities on the basis of its global business activities including both its activity in the territory of the Party of the supplier, and its activity, if any, in the territory of the Party of the entity.

5. An entity shall promptly communicate to any supplier that has applied for qualification

its decision on whether that supplier is qualified. Where an entity rejects an application for qualification or ceases to recognize a supplier as qualified, that entity shall, on request of the supplier, promptly provide it a written explanation of the reasons for its decision.

6. Nothing in this Article shall preclude an entity from excluding a supplier from a procurement on grounds such as bankruptcy or false declarations.

### **Article 9.9: Tendering Procedures**

1 Entities shall award contracts by means of open tendering procedures, in the course of which any interested supplier may submit a tender.

2. Provided that the tendering procedure is not used to avoid competition or to protect domestic suppliers, entities may award contracts by means other than open tendering procedures in the following circumstances, where applicable:

- (a) in the absence of tenders that conform to the essential requirements in the tender documentation provided in a prior invitation to tender, including any conditions for participation, on condition that the requirements of the initial procurement are not substantially modified in the contract as awarded;
- (b) where, for works of art, or for reasons connected with the protection of exclusive rights, such as patents or copyrights, or proprietary information, or where there is an absence of competition for technical reasons, the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute exists;
- (c) for additional deliveries by the original supplier that are intended either as replacement parts, extensions, or continuing services for existing equipment, software, services or installations, where a change of supplier would compel the entity to procure goods or services not meeting requirements of interchangeability with existing equipment, software, services, or installations;
- (d) for goods purchased on a commodity market;
- (e) where an entity procures a prototype or a first good or service that is developed at its request in the course of, and for, a particular contract for research, experiment, study, or original development. When such contracts have been fulfilled, subsequent procurements of such goods or services shall be subject to Articles 9.2 through 9.8 and Article 9.17;
- (f) where additional construction services that were not included in the initial contract but that were within the objectives of the original tender documentation have, due to unforeseeable circumstances, become necessary to complete the construction services described therein. However, the total value of contracts awarded for additional construction services may not exceed 50 percent of the amount of the

initial contract; or

- (g) in so far as is strictly necessary where, for reasons of extreme urgency brought about by events unforeseeable by the entity, the goods or services could not be obtained in time by means of an open tendering procedure and the use of an open tendering procedure would result in serious injury to the entity, or the entity's program responsibilities, or the Party. For purposes of this subparagraph, lack of advance planning by an entity or its concerns relating to the amount of funds available to it within a particular period do not constitute unforeseeable events.

3. An entity shall maintain a record or prepare a written report providing specific justification for any contract awarded by means other than open tendering procedures, as provided in paragraph 2.

#### **Article 9.10: Awarding of Contracts**

1. An entity shall require that in order to be considered for award, a tender must be submitted in writing and must, at the time it is submitted:

- (a) conform to the essential requirements of the tender documentation; and
- (b) be submitted by a supplier that has satisfied the conditions for participation that the entity has provided to all participating suppliers.

2. Unless an entity determines that it is not in the public interest to award a contract, it shall award the contract to the supplier that the entity has determined to be fully capable of undertaking the contract and whose tender is determined to be the most advantageous in terms of the requirements and evaluation criteria set out in the tender documentation.

3. No entity may cancel a procurement, or terminate or modify awarded contracts, in order to avoid the obligations of this Chapter.

#### **Article 9.11: Information on Awards**

##### *Information Provided to Suppliers*

1. Subject to Article 9.15, an entity shall promptly inform suppliers participating in a tendering procedure of its contract award decision. On request, an entity shall provide a supplier whose tender was not selected for award the reasons for not selecting its tender and the relative advantages of the tender the entity selected.

##### *Publication of Award Information*

2. After awarding a contract covered by this Chapter, an entity shall promptly publish a notice that includes at least the following information about the award:

- (a) the name of the entity;
- (b) a description of the goods or services procured;
- (c) the name of the winning supplier;
- (d) the value of the contract award; and
- (e) where the entity has not used open tendering procedures, an indication of the circumstances justifying the procedures used.

*Maintenance of Records*

3. An entity shall maintain records and reports relating to tendering procedures and contract awards covered by this Chapter, including the records and reports provided for in Article 9.9(3), for a period of at least three years.

**Article 9.12: Ensuring Integrity in Procurement Practices**

Each Party shall adopt the necessary legislative or other measures to establish that it is a criminal offense under its law for:

- (a) a procurement official of that Party to solicit or accept, directly or indirectly, any article of monetary value or other benefit, for that procurement official or for another person, in exchange for any act or omission in the performance of that procurement official's procurement functions;
- (b) any person to offer or grant, directly or indirectly, to a procurement official of that Party, any article of monetary value or other benefit, for that procurement official or for another person, in exchange for any act or omission in the performance of that procurement official's procurement functions; and
- (c) any person intentionally to offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign procurement official, for that foreign procurement official or for a third party, in order that the foreign procurement official act or refrain from acting in relation to the performance of procurement duties, in order to obtain or retain business or other improper advantage.



**Article 9.13: Domestic Review of Supplier Challenges***Independent Review Authorities*

1. Each Party shall establish or designate at least one impartial administrative or judicial authority that is independent from its entities to receive and review challenges that suppliers submit relating to the Party's measures implementing this Chapter in connection with a procurement covered by this Chapter and make appropriate findings and recommendations. Where a challenge by a supplier is initially reviewed by a body other than such an impartial authority, the Party shall ensure that the supplier may appeal the initial decision to an impartial administrative or judicial authority that is independent of the entity that is the subject of the challenge.
2. Each Party shall provide that an authority it establishes or designates under paragraph 1 has authority to take prompt interim measures pending the resolution of a challenge to preserve the supplier's opportunity to participate in the procurement and to ensure that the Party complies with its measures implementing this Chapter, including by suspending the contract award or the performance of a contract that has already been awarded.
3. Each Party shall ensure that its review procedures are published and are timely, transparent, effective, and consistent with due process principles.
4. Each Party shall ensure that all documents related to a challenge to a procurement covered by this Chapter are made available to any authority it establishes or designates under paragraph 1.
5. Notwithstanding other review procedures provided for or developed by each of the Parties, each Party shall ensure that any authority it establishes or designates under paragraph 1 provides at least the following:
  - (a) an opportunity for the supplier to review relevant documents and to be heard by the authority in a timely manner;
  - (b) sufficient time for the supplier to prepare and submit written challenges, which in no case shall be less than 10 days from the time when the basis of the complaint became known or reasonably should have become known to the supplier;
  - (c) a requirement that the entity respond in writing to the supplier's challenge;
  - (d) an opportunity for the supplier to reply to the entity's response to the challenge; and
  - (e) prompt delivery in writing of the decisions relating to the challenge, with an explanation of the grounds for each decision.
6. Each Party shall ensure that a supplier's submission of a challenge will not prejudice the supplier's participation in ongoing or future procurements.

**Article 9.14: Modifications and Rectifications**

1. Either Party may modify its coverage under this Chapter provided that it:
  - (a) notifies the other Party in writing and the other Party does not object in writing within 30 days of the notification; and
  - (b) offers within 30 days acceptable compensatory adjustments to the other Party to maintain a level of coverage comparable to that existing prior to the modification, except as provided in paragraphs 2 and 3.
2. Either Party may make rectifications of a purely formal nature to its coverage under this Chapter, or minor amendments to its Schedules to Annex 9.1, Sections (A) through (C), provided that it notifies the other Party in writing and the other Party does not object in writing within 30 days of the notification. A Party that makes such a rectification or minor amendment shall not be required to provide compensatory adjustments.
3. A Party need not provide compensatory adjustments in those circumstances where the Parties agree that the proposed modification covers an entity over which a Party has effectively eliminated its control or influence. Where the Parties do not agree that such government control or influence has been effectively eliminated, the objecting Party may request further information or consultations with a view to clarifying the nature of any government control or influence and reaching agreement on the entity's continued coverage under this Chapter.
4. Where the Parties are in agreement on the proposed modification, rectification, or minor amendment, including where a Party has not objected within 30 days under paragraph 1 or 2, the Commission shall give effect to the agreement by modifying forthwith the relevant Section of Annex 9.1.

**Article 9.15: NonDisclosure of Information**

- 1 The Parties, their entities, and their review authorities shall not disclose confidential information the disclosure of which would prejudice legitimate commercial interests of a particular person or might prejudice fair competition between suppliers, without the formal authorization of the person that provided the information to the Party.
- 2 Nothing in this Chapter shall be construed as requiring a Party or its entities to disclose confidential information the disclosure of which would impede law enforcement or otherwise be contrary to the public interest.

**Article 9.16: Exceptions**

Provided that such measures are not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between Parties where the same conditions prevail or a

disguised restriction on trade between the Parties, nothing in this Chapter shall be construed to prevent a Party from adopting or maintaining measures:

- (a) Necessary to protect public morals, order, or safety;
- (b) Necessary to protect human, animal, or plant life or health;
- (c) Necessary to protect intellectual property; or
- (d) Relating to goods or services of handicapped persons, of philanthropic institutions, or of prison labor.

The Parties understand that subparagraph (b) includes environmental measures necessary to protect human, animal, or plant life or health.

#### **Article 9.17: Public Information**

1. In order to facilitate access to information on commercial opportunities under this Chapter, each Party shall ensure that electronic databases that provide current information on all procurements covered by this Chapter that are conducted by entities listed in Annex 9.1(A), including information that can be disaggregated by detailed categories of goods and services, are made available to interested suppliers of the other Party, through the Internet or a comparable computer-based telecommunications network. Each Party shall, on request of the other Party, provide information on:

- (a) the classification system used to disaggregate information on procurement of different goods and services in such databases; and
- (b) the procedures for obtaining access to such databases.

2. Entities listed in Annex 9.1(A) shall publish notices of intended procurement in a government-wide, single point of entry electronic publication that is accessible through the Internet or a comparable computer-based telecommunications network. For entities listed in Annex 9.1(B), each Party shall facilitate a reasonable means for suppliers of the other Party to easily identify procurement opportunities, which should include a single point of entry.

3. Each Party shall encourage its entities to publish, as early as possible in the fiscal year, information regarding the entity's procurement plans.

#### **Article 9.18: Committee on Procurement**

The Parties hereby establish a Committee on Procurement comprising representatives of each Party. On request, the Committee shall meet to address matters related to the implementation of this Chapter, such as:

- (a) bilateral cooperation relating to the development and use of electronic communications in government procurement systems, including developments that may lead to reducing the time limits for tendering set out in Article 9.5;
- (b) exchange of statistics and other information to assist the Parties in monitoring the implementation and operation of this Chapter;
- (c) consideration of further negotiations aimed at broadening the coverage of this Chapter, including with respect to sub-federal or sub-central entities and state owned enterprises; and
- (d) efforts to increase understanding of their respective government procurement systems, with a view to maximizing access to government procurement opportunities for small business suppliers. To that end, either Party may request the other to provide trade-related technical assistance, including training of government personnel or interested suppliers on specific elements of each Party's government procurement system.

#### **Article 9.19: Further Negotiations**

On request of either Party, the Parties shall enter into negotiations with a view to extending coverage under this Chapter on a reciprocal basis, if a Party provides, through an international agreement entered into after entry into force of this Agreement, access to its procurement market for suppliers of a non-Party beyond what it provides under this Agreement to suppliers of the other Party.

#### **Article 9.20: Definitions**

For purposes of this Chapter:

**build-operate-transfer contract** and **public works concession contract** mean any contractual arrangement, the primary purpose of which is to provide for the construction or rehabilitation of physical infrastructure, plant, buildings, facilities, or other government-owned works and under which, as consideration for a supplier's execution of a contractual arrangement, the entity grants to the supplier, for a specified period of time, temporary ownership or a right to control and operate, and demand payment for the use of, such works for the duration of the contract;

**entity** means an entity listed in Annex 9.1;

**in writing or written** means any expression of information in words, numbers, or other symbols, including electronic expressions, that can be read, reproduced, and stored;

**international standard** means a standard that has been developed in conformity with the document referenced in Article 7.3 (International Standards);

**offsets** means conditions imposed or considered by an entity prior to, or in the course of, its procurement process that encourage local development or improve a Party's balance of payments accounts by means of requirements of local content, licensing of technology, investment, countertrade, or similar requirements;

**procurement official** means a person who performs procurement functions;

**publish** means to disseminate information in an electronic or paper medium that is distributed widely and is readily accessible to the general public;

**supplier** means a person that provides or could provide goods or services to an entity; and

**technical specification** means a specification that lays down the characteristics of goods to be procured or their related processes and production methods, or the characteristics of services to be procured or their related operating methods, including the applicable administrative provisions, and a requirement relating to conformity assessment procedures that an entity prescribes. A technical specification may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements, as they apply to a good, process, service or production or operating method.

## Annex 9.1

### Section A Central Level of Government Entities

This Agreement applies to procurement by the Central Level of Government Entities listed in this Section where the value of the procurement is estimated, in accordance with Section G, to equal or exceed the following relevant threshold. Unless otherwise specified within this Section, all agencies subordinate to those listed are covered by this Agreement.

#### **Thresholds:**

For procurement of goods and services

(To be adjusted according to the formula in Section G, paragraph 2): \$ 56,190

For procurement of construction services

(To be adjusted according to the formula in Section G, paragraph 3): \$ 6,481,000

#### **Schedule of Chile**

- 1 Presidencia de la República
- 2 Ministerio de Interior
- 3 Ministerio de Relaciones Exteriores
- 4 Ministerio de Defensa Nacional
- 5 Ministerio de Hacienda
- 6 Ministerio Secretaría General de la Presidencia
- 7 Ministerio Secretaría General de Gobierno
- 8 Ministerio de Economía, Fomento y Reconstrucción
- 9 Ministerio de Minería
- 10 Ministerio de Planificación y Cooperación
- 11 Ministerio de Educación
- 12 Ministerio de Justicia
- 13 Ministerio de Trabajo y Previsión Social
- 14 Ministerio de Obras Públicas
- 15 Ministerio de Transportes y Telecomunicaciones
- 16 Ministerio de Salud
- 17 Ministerio de la Vivienda y Urbanismo
- 18 Ministerio de Bienes Nacionales
- 19 Ministerio de Agricultura
- 20 Ministerio Servicio Nacional de la Mujer

Gobiernos Regionales

Intendencia I Región de Tarapacá

Gobernación de Iquique

Gobernación de Tamarugal

Intendencia II Región de Antofagasta

Gobernación de Antofagasta

Gobernación de El Loa

Gobernación de Tocopilla

Intendencia III Región de Atacama

Gobernación de Chañaral

Gobernación de Copiapó

Gobernación de Huasco

Intendencia IV Región de Coquimbo

Gobernación de El Elqui

Gobernación de Limarí

Gobernación de Choapa

Intendencia V Región de Valparaíso

Gobernación de Petorca

Gobernación de Valparaíso

Gobernación de San Felipe de Aconcagua

Gobernación de Los Andes

Gobernación de Quillota

Gobernación de San Antonio

Gobernación de Isla de Pascua

Intendencia VI Región del Libertador Bernardo O'Higgins

Gobernación de Cachapoal

Gobernación de Colchagua

Gobernación de Cardenal Caro

Intendencia VII Región del Maule

Gobernación de Curicó

Gobernación de Talca

Gobernación de Linares

Intendencia VIII Región del Biobío

Gobernación de Ñuble

Gobernación de Biobío

Gobernación de Concepción

Gobernación de Arauco

Intendencia IX Región de la Araucanía  
Gobernación de Malleco  
Gobernación de Cautín

Intendencia X Región de Los Lagos  
Gobernación de Osorno  
Gobernación de Llanquihue  
Gobernación de Chiloé  
Gobernación de Palena

Intendencia XI Región de Aysén del General Carlos Ibáñez del Campo  
Gobernación de Coihaique  
Gobernación de Aysén  
Gobernación de General Carrera  
Gobernación de Capitán Prat

Intendencia XII Región de Magallanes y de la Antártica Chilena  
Gobernación de Última Esperanza  
Gobernación de Magallanes  
Gobernación de Tierra del Fuego  
Gobernación de Antártica Chilena

Intendencia Región Metropolitana  
Gobernación de Chacabuco  
Gobernación de Cordillera  
Gobernación de Maipo  
Gobernación de Talagante  
Gobernación de Melipilla  
Gobernación de Santiago

Intendencia XIV Región de Los Ríos  
Gobernación de Valdivia  
Gobernación de Ranco

Intendencia XV Región de Arica y Parinacota  
Gobernación de Arica  
Gobernación de Parinacota

### **Schedule of the United States**

1. Advisory Commission on Intergovernmental Relations
2. African Development Foundation
3. Alaska Natural Gas Transportation System
4. American Battle Monuments Commission



5. Appalachian Regional Commission
6. Broadcasting Board of Governors
7. Commission of Fine Arts
8. Commission on Civil Rights
9. Commodity Futures Trading Commission
10. Consumer Product Safety Commission
11. Corporation for National and Community Service
12. Delaware River Basin Commission
13. Department of Agriculture (Not including procurement of agricultural goods made in furtherance of agricultural support programs or human feeding programs)
14. Department of Commerce (Not including shipbuilding activities of NOAA)
15. Department of Defense (Not including the procurement of the following goods:
  - (a) Federal Supply Classification (FSC) 83 all elements of this classification other than pins, needles, sewing kits, flag staffs, flagpoles, and flagstaff trucks;
  - (b) FSC 84 all elements other than subclass 8460 (luggage);
  - (c) FSC 89 all elements other than subclass 8975 (tobacco products);
  - (d) FSC 2310 (buses only);
  - (e) Specialty metals, defined as steels melted in steel manufacturing facilities located in the United States or its possessions, where the maximum alloy content exceeds one or more of the following limits, must be used in products purchased by DOD: (1) manganese, 1.65 per cent; silicon, 0.60 per cent; or copper, 0.60 per cent; or which contains more than 0.25 per cent of any of the following elements: aluminium, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, or vanadium; (2) metal alloys consisting of nickel, iron-nickel and cobalt base alloys containing a total of other alloying metals (except iron) in excess of 10 per cent; (3) titanium and titanium alloys; or (4) zirconium base alloys;
  - (f) FSC 19 and 20 that part of these classifications defined as naval vessels or major components of the hull or superstructure thereof;
  - (g) FSC 51 and 52;
  - (h) The following FSC categories are not generally covered due to application of Article 17 23.2: 10, 12, 13, 14, 15, 16, 17, 19, 20, 28, 31, 58, 59, 95. For detailed listing of the Federal Supply Classifications (FSC), see [www.scrantonrtg.com/secrc/fsc-codes/fsc.html](http://www.scrantonrtg.com/secrc/fsc-codes/fsc.html).
16. Department of Education
17. Department of Energy (Not including national security procurements made in support of safeguarding nuclear materials or technology and entered into under the authority of the Atomic Energy Act, and oil purchases related to the Strategic Petroleum Reserve)
18. Department of Health and Human Services
19. Department of Homeland Security (DHS)
20. Department of Housing and Urban Development
21. Department of the Interior, including the Bureau of Reclamation
22. Department of Justice
23. Department of Labor
24. Department of State
25. Department of Transportation (Not including the Federal Aviation Administration)
26. Department of the Treasury

27. Department of Veterans Affairs
28. Environmental Protection Agency
29. Equal Employment Opportunity Commission
30. Executive Office of the President
31. ExportImport Bank of the United States
32. Farm Credit Administration
33. Federal Communications Commission
34. Federal Crop Insurance Corporation
35. Federal Deposit Insurance Corporation
36. Federal Election Commission
37. Federal Home Loan Mortgage Corporation
38. Federal Housing Finance Board
39. Federal Maritime Commission
40. Federal Mediation and Conciliation Service
41. Federal Mine Safety and Health Review Commission
42. Federal Prison Industries, Inc.
43. Federal Reserve System
44. Federal Retirement Thrift Investment Board
45. Federal Trade Commission
46. General Services Administration (Not including Federal Supply Groups 51 and 52 and Federal Supply Class 7340). For detailed listing of the Federal Supply Classifications (FSC), see [www.scrantonrtg.com/secrc/fscodes/fsc.html](http://www.scrantonrtg.com/secrc/fscodes/fsc.html).
47. Government National Mortgage Association
48. Holocaust Memorial Council
49. InterAmerican Foundation
50. Merit Systems Protection Board
51. National Aeronautics and Space Administration (NASA)
52. National Archives and Records Administration
53. National Capital Planning Commission
54. National Commission on Libraries and Information Science
55. National Council on Disability
56. National Credit Union Administration
57. National Foundation on the Arts and the Humanities
58. National Labor Relations Board
59. National Mediation Board
60. Nuclear Regulatory Commission
61. National Science Foundation
62. National Transportation Safety Board
63. Occupational Safety and Health Review Commission
64. Office of Government Ethics
65. Office of the Nuclear Waste Negotiator
66. Office of Personnel Management
67. Office of Special Counsel
68. Office of Thrift Supervision
69. Overseas Private Investment Corporation
70. Peace Corps

71. Railroad Retirement Board
72. Securities and Exchange Commission
73. Selective Service System 918
74. Small Business Administration
75. Smithsonian Institution
76. Susquehanna River Basin Commission
77. United States Agency for International Development
78. United States International Trade Commission

### **Section B Sub-Central Level Government Entities**

This Agreement applies to procurement by the Sub-Central Level Government Entities listed in this Section where the value of the procurement is estimated, in accordance with Section G, to equal or exceed the following relevant threshold.

Thresholds:

(To be adjusted according to the formula in Section G, paragraph 3)

For procurement of goods and services:	\$ 460,000
For procurement of construction services:	\$ 6,481,000

### **Schedule of Chile**

1. Municipalidad de Arica
2. Municipalidad de Iquique
3. Municipalidad de Pozo Almonte
4. Municipalidad de Pica
5. Municipalidad de Huara
6. Municipalidad de Camarones
7. Municipalidad de Putre
8. Municipalidad de General Lagos
9. Municipalidad de Camiña
10. Municipalidad de Colchane
11. Municipalidad de Tocopilla
12. Municipalidad de Antofagasta
13. Municipalidad de Mejillones
14. Municipalidad de Taltal
15. Municipalidad de Calama
16. Municipalidad de Ollagüe

17. Municipalidad de María Elena
18. Municipalidad de San Pedro de Atacama
19. Municipalidad de Sierra Gorda
20. Municipalidad de Copiapó
21. Municipalidad de Caldera
22. Municipalidad de Tierra Amarilla
23. Municipalidad de Chañaral
24. Municipalidad de Diego de Almagro
25. Municipalidad de Vallenar
26. Municipalidad de Freirina
27. Municipalidad de Huasco
28. Municipalidad de Alto del Carmen
29. Municipalidad de La Serena
30. Municipalidad de La Higuera
31. Municipalidad de Vicuña
32. Municipalidad de Paihuano
33. Municipalidad de Coquimbo
34. Municipalidad de Andacollo
35. Municipalidad de Ovalle
36. Municipalidad de Río Hurtado
37. Municipalidad de Monte Patria
38. Municipalidad de Punitaqui
39. Municipalidad de Combarbalá
40. Municipalidad de Illapel
41. Municipalidad de Salamanca
42. Municipalidad de Los Vilos
43. Municipalidad de Canela
44. Municipalidad de Valparaíso
45. Municipalidad de Viña del Mar
46. Municipalidad de Quilpué
47. Municipalidad de Villa Alemana
48. Municipalidad de Casablanca
49. Municipalidad de Quintero
50. Municipalidad de Puchuncaví
51. Municipalidad de Quillota
52. Municipalidad de La Calera
53. Municipalidad de La Cruz
54. Municipalidad de Hijuelas
55. Municipalidad de Nogales
56. Municipalidad de Limache
57. Municipalidad de Olmué
58. Municipalidad de Isla de Pascua
59. Municipalidad de San Antonio
60. Municipalidad de Santo Domingo
61. Municipalidad de Cartagena
62. Municipalidad de El Tabo

63. Municipalidad de El Quisco
64. Municipalidad de Algarrobo
65. Municipalidad de San Felipe
66. Municipalidad de Santa María
67. Municipalidad de Putaendo
68. Municipalidad de Catemu
69. Municipalidad de Panquehue
70. Municipalidad de Llayllay
71. Municipalidad de Los Andes
72. Municipalidad de San Esteban
73. Municipalidad de Calle Larga
74. Municipalidad de Rinconada
75. Municipalidad de La Ligua
76. Municipalidad de Cabildo
77. Municipalidad de Petorca
78. Municipalidad de Papudo
79. Municipalidad de Zapallar
80. Municipalidad de Juan Fernández
81. Municipalidad de Concón
82. Municipalidad de Buin
83. Municipalidad de Calera de Tango
84. Municipalidad de Colina
85. Municipalidad de Curacaví
86. Municipalidad de El Monte
87. Municipalidad de Isla de Maipo
88. Municipalidad de Pudahuel
89. Municipalidad de La Cisterna
90. Municipalidad de Las Condes
91. Municipalidad de La Florida
92. Municipalidad de La Granja
93. Municipalidad de Lampa
94. Municipalidad de Conchalí
95. Municipalidad de La Reina
96. Municipalidad de Maipú
97. Municipalidad de Estación Central
98. Municipalidad de Melipilla
99. Municipalidad de Ñuñoa
100. Municipalidad de Paine
101. Municipalidad de Peñaflor
102. Municipalidad de Pirque
103. Municipalidad de Providencia
104. Municipalidad de Puente Alto
105. Municipalidad de Quilicura
106. Municipalidad de Quinta Normal
107. Municipalidad de Renca
108. Municipalidad de San Bernardo

109. Municipalidad de San José de Maipo
110. Municipalidad de San Miguel
111. Municipalidad de Santiago
112. Municipalidad de Talagante
113. Municipalidad de Tiltil
114. Municipalidad de Alhué
115. Municipalidad de San Pedro
116. Municipalidad de María Pinto
117. Municipalidad de San Ramón
118. Municipalidad de La Pintana
119. Municipalidad de Macul
120. Municipalidad de Peñalolén
121. Municipalidad de Lo Prado
122. Municipalidad de Cerro Navia
123. Municipalidad de San Joaquín
124. Municipalidad de Cerrillos
125. Municipalidad de El Bosque
126. Municipalidad de Recoleta
127. Municipalidad de Vitacura
128. Municipalidad de Lo Espejo
129. Municipalidad de Lo Barnechea
130. Municipalidad de Independencia
131. Municipalidad de Pedro Aguirre Cerda
132. Municipalidad de Huechuraba
133. Municipalidad de Padre Hurtado
134. Municipalidad de Rancagua
135. Municipalidad de Machalí
136. Municipalidad de Graneros
137. Municipalidad de Codegua
138. Municipalidad de Mostazal
139. Municipalidad de Peumo
140. Municipalidad de Las Cabras
141. Municipalidad de San Vicente
142. Municipalidad de Pichidegua
143. Municipalidad de Doñihue
144. Municipalidad de Coltauco
145. Municipalidad de Rengo
146. Municipalidad de Quinta de Tilcoco
147. Municipalidad de Requínoa
148. Municipalidad de Olivar
149. Municipalidad de Coínco
150. Municipalidad de Malloa
151. Municipalidad de San Fernando
152. Municipalidad de Chimbarongo
153. Municipalidad de Nancagua
154. Municipalidad de Placilla

155. Municipalidad de Santa Cruz
156. Municipalidad de Lolol
157. Municipalidad de Chépica
158. Municipalidad de Pumanque
159. Municipalidad de Paredones
160. Municipalidad de Palmilla
161. Municipalidad de Litueche
162. Municipalidad de Pichilemu
163. Municipalidad de Marchihue
164. Municipalidad de La Estrella
165. Municipalidad de Navidad
166. Municipalidad de Peralillo
167. Municipalidad de Curicó
168. Municipalidad de Romeral
169. Municipalidad de Teno
170. Municipalidad de Rauco
171. Municipalidad de Licantén
172. Municipalidad de Vichuquén
173. Municipalidad de Hualañé
174. Municipalidad de Molina
175. Municipalidad de Sagrada Familia
176. Municipalidad de Talca
177. Municipalidad de San Clemente
178. Municipalidad de Pelarco
179. Municipalidad de Río Claro
180. Municipalidad de Penciahue
181. Municipalidad de Maule
182. Municipalidad de Curepto
183. Municipalidad de Constitución
184. Municipalidad de Empedrado
185. Municipalidad de San Javier
186. Municipalidad de Linares
187. Municipalidad de Yerbas Buenas
188. Municipalidad de Colbún
189. Municipalidad de Longaví
190. Municipalidad de Parral
191. Municipalidad de Retiro
192. Municipalidad de Chanco
193. Municipalidad de Cauquenes
194. Municipalidad de Villa Alegre
195. Municipalidad de Pelluhue
196. Municipalidad de San Rafael
197. Municipalidad de Chillán
198. Municipalidad de Pinto
199. Municipalidad de Coihueco
200. Municipalidad de Ránquil

201. Municipalidad de Coelemu
202. Municipalidad de Quirihue
203. Municipalidad de Ninhue
204. Municipalidad de Portezuelo
205. Municipalidad de Trehuaco
206. Municipalidad de Cobquecura
207. Municipalidad de San Carlos
208. Municipalidad de Ñiquén
209. Municipalidad de San Fabián
210. Municipalidad de San Nicolás
211. Municipalidad de Bulnes
212. Municipalidad de San Ignacio
213. Municipalidad de Quillón
214. Municipalidad de Yungay
215. Municipalidad de Pemuco
216. Municipalidad de El Carmen
217. Municipalidad de Concepción
218. Municipalidad de Penco
219. Municipalidad de Hualqui
220. Municipalidad de Florida
221. Municipalidad de Tomé
222. Municipalidad de Talcahuano
223. Municipalidad de Coronel
224. Municipalidad de Lota
225. Municipalidad de Santa Juana
226. Municipalidad de Lebu
227. Municipalidad de Los Álamos
228. Municipalidad de Arauco
229. Municipalidad de Curanilahue
230. Municipalidad de Cañete
231. Municipalidad de Contulmo
232. Municipalidad de Tirúa
233. Municipalidad de Los Ángeles
234. Municipalidad de Santa Bárbara
235. Municipalidad de Laja
236. Municipalidad de Quilleco
237. Municipalidad de Nacimiento
238. Municipalidad de Negrete
239. Municipalidad de Mulchén
240. Municipalidad de Quilaco
241. Municipalidad de Yumbel
242. Municipalidad de Cabrero
243. Municipalidad de San Rosendo
244. Municipalidad de Tucapel
245. Municipalidad de Antuco
246. Municipalidad de Chillán Viejo



247. Municipalidad de San Pedro de la Paz
248. Municipalidad de Chiguayante
249. Municipalidad de Angol
250. Municipalidad de Purén
251. Municipalidad de Los Sauces
252. Municipalidad de Renaico
253. Municipalidad de Collipulli
254. Municipalidad de Ercilla
255. Municipalidad de Traiguén
256. Municipalidad de Lumaco
257. Municipalidad de Victoria
258. Municipalidad de Curacautín
259. Municipalidad de Lonquimay
260. Municipalidad de Temuco
261. Municipalidad de Vilcún
262. Municipalidad de Freire
263. Municipalidad de Cunco
264. Municipalidad de Lautaro
265. Municipalidad de Perquenco
266. Municipalidad de Galvarino
267. Municipalidad de Nueva Imperial
268. Municipalidad de Carahue
269. Municipalidad de Saavedra
270. Municipalidad de Pitrufquén
271. Municipalidad de Gorbea
272. Municipalidad de Toltén
273. Municipalidad de Loncoche
274. Municipalidad de Villarrica
275. Municipalidad de Pucón
276. Municipalidad de Melipeuco
277. Municipalidad de Curarrehue
278. Municipalidad de Teodoro Schmidt
279. Municipalidad de Padre de las Casas
280. Municipalidad de Valdivia
281. Municipalidad de Corral
282. Municipalidad de Mariquina
283. Municipalidad de Máfil
284. Municipalidad de Lanco
285. Municipalidad de Los Lagos
286. Municipalidad de Futrono
287. Municipalidad de Panguipulli
288. Municipalidad de La Unión
289. Municipalidad de Paillaco
290. Municipalidad de Río Bueno
291. Municipalidad de Lago Ranco
292. Municipalidad de Osorno

293. Municipalidad de Puyehue
294. Municipalidad de San Pablo
295. Municipalidad de Puerto Octay
296. Municipalidad de Río Negro
297. Municipalidad de Purranque
298. Municipalidad de Puerto Montt
299. Municipalidad de Calbuco
300. Municipalidad de Puerto Varas
301. Municipalidad de Llanquihue
302. Municipalidad de Fresia
303. Municipalidad de Frutillar
304. Municipalidad de Maullín
305. Municipalidad de Los Muermos
306. Municipalidad de Ancud
307. Municipalidad de Quemchi
308. Municipalidad de Dalcahue
309. Municipalidad de Castro
310. Municipalidad de Chonchi
311. Municipalidad de Queilén
312. Municipalidad de Quellón
313. Municipalidad de Puqueldón
314. Municipalidad de Quinchao
315. Municipalidad de Curaco De Vélez
316. Municipalidad de Chaitén
317. Municipalidad de Palena
318. Municipalidad de Futaleufú
319. Municipalidad de San Juan de la Costa
320. Municipalidad de Cochamó
321. Municipalidad de Hualaihué
322. Municipalidad de Aysén
323. Municipalidad de Cisnes
324. Municipalidad de Coyhaique
325. Municipalidad de Chile Chico
326. Municipalidad de Cochrane
327. Municipalidad de Lago Verde
328. Municipalidad de Guaitecas
329. Municipalidad de Río Ibáñez
330. Municipalidad de O'Higgins
331. Municipalidad de Tortel
332. Municipalidad de Punta Arenas
333. Municipalidad de Puerto Natales
334. Municipalidad de Porvenir
335. Municipalidad de Torres del Paine
336. Municipalidad de Río Verde
337. Municipalidad de Laguna Blanca
338. Municipalidad de San Gregorio

- 339. Municipalidad de Primavera
- 340. Municipalidad de Timaukel
- 341. Municipalidad Cabo de Hornos (ex Navarino)
- 342. Municipalidad de Alto Hospicio
- 343. Municipalidad de Hualpén
- 344. Municipalidad de Alto Biobío
- 345. Municipalidad de Cholchol
- 346. Municipalidad Antártica

### **Schedule of the United States**

#### Arizona

Executive branch agencies

#### Arkansas

Executive branch agencies, including universities but excluding the Office of Fish and Game and construction services

#### California

Executive branch agencies

#### Colorado

Executive branch agencies

#### Connecticut

Department of Administrative Services  
Connecticut Department of Transportation  
Connecticut Department of Public Works  
Constituent Units of Higher Education

#### Delaware\*

Administrative Services (Central Procurement Agency)  
State Universities  
State Colleges

#### Florida\*

Executive branch agencies

#### Hawaii

Department of Accounting and General Services (with the exception of procurements of software developed in the state and construction)

Idaho

Central Procurement Agency (including all colleges and universities subject to central purchasing oversight)

Illinois\*

Department of Central Management Services

Iowa\*

Department of General Services

Department of Transportation

Board of Regents' Institutions (universities)

Kansas

Executive branch agencies, excluding construction services, automobiles and aircraft

Kentucky

Division of Purchases, Finance and Administration Cabinet, excluding construction projects

Louisiana

Executive branch agencies

Maine\*

Department of Administrative and Financial Services

Bureau of General Services (covering state government agencies and school construction)

Maine Department of Transportation

Maryland\*

Office of the Treasury

Department of the Environment

Department of General Services

Department of Housing and Community Development

Department of Human Resources

Department of Licensing and Regulation

Department of Natural Resources

Department of Public Safety and Correctional Services

Department of Personnel

Department of Transportation

Massachusetts

Executive Office for Administration and Finance  
Executive Office of Communities and Development  
Executive Office of Consumer Affairs  
Executive Office of Economic Affairs  
Executive Office of Education  
Executive Office of Elder Affairs  
Executive Office of Environmental Affairs  
Executive Office of Health and Human Service  
Executive Office of Labor  
Executive Office of Public Safety  
Executive Office of Transportation and Construction

Michigan\*

Department of Management and Budget

Minnesota

Executive branch agencies

Mississippi

Department of Finance and Administration (does not include services)

Missouri

Office of Administration  
Division of Purchasing and Materials Management

Montana

Executive branch agencies (only for services and construction)

Nebraska

Central Procurement Agency

New Hampshire\*

Central Procurement Agency

New York\*

State agencies  
State university system  
Public authorities and public benefit corporations, with the exception of those entities with multistate mandates

In addition to the exceptions noted at the end of this Section, transit cars, buses and related equipment are not covered.

Oklahoma\*

Department of Central Services and all state agencies and departments subject to the Oklahoma Central Purchasing Act, excluding construction services.

Oregon

Department of Administrative Services

Pennsylvania\*

Executive branch agencies, including:

Governor's Office

Department of the Auditor General

Treasury Department

Department of Agriculture

Department of Banking

Pennsylvania Securities Commission

Department of Health

Department of Transportation

Insurance Department

Department of Aging

Department of Correction

Department of Labor and Industry

Department of Military Affairs

Office of Attorney General

Department of General Services

Department of Education

Public Utility Commission

Department of Revenue

Department of State

Pennsylvania State Police

Department of Public Welfare

Fish Commission

Game Commission

Department of Commerce

Board of Probation and Parole

Liquor Control Board

Milk Marketing Board

Lieutenant Governor's Office

Department of Community Affairs

Pennsylvania Historical and Museum Commission

Pennsylvania Emergency Management Agency

State Civil Service Commission  
Pennsylvania Public Television Network  
Department of Environmental Resources  
State Tax Equalization Board  
Department of Public Welfare  
State Employees' Retirement System  
Pennsylvania Municipal Retirement Board  
Public School Employees' Retirement System  
Pennsylvania Crime Commission  
Executive Offices

Rhode Island

Executive branch agencies, excluding boats, automobiles, buses and related equipment

South Dakota

Central Procuring Agency (including universities and penal institutions)

In addition to the exceptions noted at the end of this Section, procurements of beef are not covered.

Tennessee

Executive branch agencies (excluding services and construction)

Texas

Texas Building and Procurement Commission

Utah

Executive branch agencies

Vermont

Executive branch agencies

Washington

Washington State executive branch agencies, including:

*General Administration*

*Department of Transportation*

State Universities

In addition to the exceptions noted at the end of this Section, procurements of fuel, paper products, boats, ships and vessels are not covered.

Wisconsin

Executive branch agencies, including:

*Department of Administration*

State Correctional Institutions

*Department of Development*

*Educational Communications Board*

*Department of Employment Relations*

*State Historical Society*

*Department of Health and Social Services*

*Insurance Commissioner*

*Department of Justice*

*Lottery Board*

*Department of Natural Resources*

*Administration for Public Instruction*

*Racing Board*

*Department of Revenue*

*State Fair Park Board*

*Department of Transportation*

*State University System*

Wyoming\*

Procurement Services Division

Wyoming Department of Transportation

University of Wyoming

**U.S. Notes**

1. For those states marked by an asterisk with preexisting restrictions, the Chapter does not apply to procurement of construction grade steel (including requirements on subcontracts), motor vehicles and coal.
2. Nothing in this Section shall be construed to prevent any state entity from applying restrictions that promote the general environmental quality in that state, as long as such restrictions are not disguised barriers to international trade.
3. This Chapter shall not apply to any procurement made by a covered entity on behalf of non-covered entities at a different level of government.
4. This Chapter shall not apply to restrictions attached to Federal funds for mass transit and highway projects.
5. This Chapter shall not apply to State Government Entities' procurements of printing services.



6. This Chapter shall not apply to preferences or restrictions associated with programs administered by entities that promote the development of distressed areas and businesses owned by minorities, disabled veterans, and women.

### **Section C - Other Covered Entities**

This Agreement applies to procurement by the Other Covered Entities listed in this Section where the value of the procurement is estimated, in accordance with Section G, to equal or exceed the following relevant threshold.

#### **Thresholds:**

For goods and services of List A Entities

(To be adjusted according to the formula in Section G, paragraph 2): \$ 280,951

For goods and services of List B Entities

(To be adjusted according to the formula in Section G, paragraph 3): \$ 518,000

For construction services of List A and List B Entities

(To be adjusted according to the formula in Section G, paragraph 3): \$6,481,000

### **Schedule of Chile**

#### **List A:**

1. Empresa Portuaria Arica
2. Empresa Portuaria Iquique
3. Empresa Portuaria Antofagasta
4. Empresa Portuaria Coquimbo
5. Empresa Portuaria Valparaíso
6. Empresa Portuaria San Antonio
7. Empresa Portuaria San Vicente Talcahuano
8. Empresa Portuaria Puerto Montt
9. Empresa Portuaria Chacabuco
10. Empresa Portuaria Austral
11. Aeropuertos de propiedad del Estado, dependientes de la Dirección de Aeronáutica Civil

**Schedule of the United States****List A:**

1. *Tennessee Valley Authority*
2. *Bonneville Power Administration*
3. *Western Area Power Administration*
4. *Southeastern Power Administration*
5. *Southwestern Power Administration*
6. *St. Lawrence Seaway Development Corporation*

**List B:**

1. The Port Authority of New York and New Jersey, with the following exceptions:
  - (a) maintenance, repair and operating materials and supplies (e.g., hardware, tools, lamps/lighting, plumbing);
  - (b) in exceptional cases, individual procurements may require certain regional production of goods if authorized by the Board of Directors; and,
  - (c) procurements pursuant to multijurisdictional agreement (i.e., for contracts which have initially been awarded by other jurisdictions).
2. The Port of Baltimore (not including procurement of transit cars, buses and related equipment and subject to the conditions specified for the state of New York in Section B).
3. The New York Power Authority (not including procurement of transit cars, buses and related equipment and subject to the conditions specified for the state of New York in Section B).
4. Rural Utilities Service Financing:
  - (a) waiver of Buy American restriction on financing for all power generation projects (restrictions on financing for telecommunication projects are excluded from the Chapter);
  - (b) application of WTO Government Procurement Agreement – equivalent procurement procedures and national treatment to funded projects exceeding the thresholds specified above.

**U.S. Notes**

1. With respect to procurement by entities listed in this Section, this Chapter shall not apply to restrictions attached to Federal funds for airport projects.

### **Section D – Goods**

This Chapter applies to all goods procured by the entities listed in Annex 9.1, Sections (A) through (C), subject to the Notes to the respective Sections and the General Notes. (For complete listing of U.S. Federal Supply Classification, see <http://www.scrantonrtg.com/secrc/fsc-codes/fsc.html>.)

### **Section E – Services**

This Chapter applies to all services procured by the entities listed in Annex 9.1, Sections (A) through (C), subject to the Notes to the respective Sections, the General Notes, and the Notes to this Section, except for the services in the categories of the Common Classification System excluded in the Schedules of each Party. (For complete listing of the Common Classification System, see <http://www.sice.oas.org/trade/nafta/chap105.asp>.)

#### **Schedule of Chile**

The following services, as elaborated in the Common Classification System, are excluded:

L. Financial and Related Services

All classes

#### **Schedule of the United States**

The following services, as elaborated in the Common Classification System, are excluded:

A. Research and Development

All classes

D. Information Processing and Related Telecommunications Services

D304 ADP Telecommunications and Transmission Services, except for those services classified as “enhanced or value added services.” For purposes of this provision, the procurement of “ADP Telecommunications and Transmission services” does not include the ownership or furnishing of facilities for the transmission of voice or data services.

D305 ADP Teleprocessing and Timesharing Services

D316 Telecommunications Network Management Services

D317 Automated News Services, Data Services or Other Information Services  
D399 Other ADP and Telecommunications Services

J. Maintenance, Repair, Modification, Rebuilding and Installation of Equipment

J019 Maintenance, Repair, Modification, Rebuilding and  
Installation of Equipment Related to Ships  
J998 Nonnuclear Ship Repair

M. Operation of Government Owned Facilities

All facilities operated by the *Department of Defense, Department of Energy and the National Aeronautics and Space Administration*; and for all entities:

M180 Research and Development

S. Utilities

All Classes

V. Transportation, Travel and Relocation Services

All Classes, except V503 Travel Agent Services

**U.S. Notes:**

1. All services purchased in support of military forces overseas are excluded from coverage of this Chapter.

**Section F – Construction Services**

This Chapter applies to all construction services procured by the Entities listed in Annex 9.1, Sections (A) through (C), subject to the Notes to the respective sections, the General Notes, and the Notes to this Section, except for the construction services set out in the Schedules to this Annex.

**Schedule of Chile**

No construction services are excluded.

### Schedule of the United States

The following construction services are excluded:

Dredging.

#### U.S. Notes:

In accordance with this Chapter, buy national requirements on articles, supplies and materials acquired for use in construction contracts covered by this Chapter shall not apply to goods of Chile.

### Section G– Threshold Adjustment Formulas

1. The thresholds in Section A through C shall be adjusted at two year intervals with each adjustment taking effect on January 1. In calculating the value of a contract for the purpose of ascertaining whether the procurement is covered by this Chapter, an entity shall include the maximum total estimated value of the procurement over its entire duration, taking into account all options, premiums, fees, commissions, interest and other revenue streams or other forms of remuneration provided for in such contracts.

2. With regard to the thresholds for goods and services in Section A and for goods and services for List A entities in Section C, the United States shall calculate the U.S. dollar value for each threshold in accordance with the following:

- (a) The U.S. inflation rate shall be measured by the Producer Price Index for Finished Goods published by the U.S. Bureau of Labor Statistics, using the two year time that ends on October 31 in the year prior to the adjustment taking effect, and using the following formula:

$$T_o \times (1+i) = T_i$$

$T_o$  = threshold value at base period

$i$  = accumulated U.S. inflation rate for the  $i^{\text{th}}$  two year period

$T_i$  = new threshold value.

- (b) the first adjustment for inflation, to take effect on January 1, 2004, shall be calculated using the period from November 1, 2001 through October 31, 2003; and
- (c) all subsequent adjustments shall be calculated using two year periods, each period beginning November 1, and shall take effect on January 1 of the year immediately following the end of the two year period.

3. The thresholds for goods and services in Section B, for goods and services for List B entities in Section C, and for construction services in Sections A through C are conversions into U.S. dollars of the thresholds listed in the U.S. Appendix 1 to the WTO Agreement on Government Procurement, which are set out in Special Drawing Rights (SDRs) and listed below. The United States shall calculate adjustments of these thresholds, based on an average of the daily conversion rate of the U.S. dollar in terms of SDRs published by the IMF in its monthly "International Financial Statistics", for the two year period preceding October 1 or November 1 of the year before the adjusted thresholds are to take effect:

- (a) 5 million SDRs for construction services;
- (b) 355,000 SDRs for goods and services for Section B entities; and
- (c) 400,000 SDRs for goods and services for List B entities in Section C.

4. The United States shall notify Chile of the adjusted threshold values no later than November 16 of the year before the adjustment takes effect.

5. If a major change in a national currency vis-à-vis the SDR during a year were to create a significant problem with regard to the application of the Chapter, the Parties shall consult as to whether an interim adjustment is appropriate.

6. Chile shall convert the U.S. dollar value of the adjusted thresholds into the Chilean Peso based on the official conversion rate of the Central Bank of Chile (Banco Central de Chile), using the average of the daily values of the Chilean Peso in terms of the U.S. dollar as published in Chile's Diario Oficial (Dólar Observado), over the two year period ending September 30 in the year prior to the adjustments taking effect, and rounded to the nearest thousand Chilean Pesos.

7. Chile shall notify the United States of the value in its currency of the newly calculated thresholds no later than one month before the thresholds take effect.

## **Section H : General Notes**

### **Schedule of Chile**

None.

**Schedule of the United States**

1. This Chapter does not apply to set asides on behalf of small and minority businesses.
2. This Chapter does not apply to the procurement of transportation services that form a part of, or are incidental to, a procurement contract.
3. Where a contract to be awarded by an entity is not covered by this Chapter, nothing in this Chapter shall be construed to cover any good or service component of that contract.