

我國加入 WTO 「政府採購協定」問答集

問題 1：我加入 GPA 案正式施行時程為何？

擬答：

WTO 政府採購委員會於 97 年 12 月 9 日通過採認我國申請加入 GPA 案；行政院於 97 年 12 月 25 日通過我加入 GPA 案，12 月 26 日送請立法院審議。立法院院會於 98 年 1 月 6 日進行一讀並交付委員會審議，4 月 1 日外交及國防委員會、經濟委員會、交通委員會聯席會議審議通過，並於 4 月 17 日朝野協商通過，立法院院會於 98 年 5 月 15 日二讀通過。總統於 98 年 6 月 8 日批准，俟我國將同意加入書通知 WTO 秘書長後 30 日生效。

Q1: What is the progress of our accession to the Agreement on Government Procurement (GPA)?

Answer:

The WTO (World Trade Organization) Government Procurement Committee adopted our accession to the GPA on December 9, 2008. The Executive Yuan approved our accession bill to the GPA on December 25, 2008, and referred it to the Legislative Yuan for review on December 26, 2008. The Legislative Yuan proceeded the 1st reading on January 6, 2009. And then, a joint-review meeting was held and the accession bill was accepted on April 1, 2009 by the Foreign and National Defense Committee, the Economics Committee, and the Transportation Committee. The ruling party and opposition party caucuses discussed it further on April 17, 2009. The accession bill was adopted in the 2nd reading by the Legislative Yuan on May 15, 2009, and it was ratified by the President on June 8, 2009. The GPA shall enter into force on the 30th day following the date on which the instrument of accession has been received by the Director-General of the WTO.

問題 2：我國加入 GPA 開放市場件數及金額之統計？

擬答：

依 94 年至 96 年之統計資料推估，我國未來每年對 GPA 會員廠商開放之件數約 2,170 件，金額約新台幣 1,989 億元，約折合 60 億美元；另同期間各機關採購進口品或採購案由外商得標之金額比率為 26.87%（工程類比率為 11.00%、財物類比率為 60.97%、勞務類比率為 6.13%），顯示我國政府採購市場已經非常開放。

Q2: What is the statistics in terms of the number of procurement cases as well as value of procurement covered by the GPA?

Answer:

According to the statistics from 2005 to 2007, the number of procurement cases which may be covered by the WTO/GPA was 2,170, and the value of procurement was NT\$198.9 billion (approximately US\$6 billion). The statistics of procurement in the same period showed that 26.87% of the value of procurement was awarded to import products or foreign suppliers (the respective percentages of construction, goods and services were 11%, 60.97% and 6.13%). It indicates that our government procurement market has been highly open to foreign suppliers.

問題 3：依我國加入 GPA 市場承諾開放清單，適用 GPA 之採購機關為何？開放市場門檻金額為多少？

擬答：

我國向 WTO 提出之承諾開放清單，其主要內容如下，個案開放門檻金額係依其他 GPA 會員已開放之額度：

| 附件一 (Annex I) | |
|---------------|--|
| 適用機關 | 總統府、行政院及行政院所屬部、會、處、局、署 |
| 個案開放門檻金額 | 財物：13 萬特別提款權(約折合新台幣 650 萬) 勞務：同上 工程：500 萬特別提款權(約折合新台幣 2 億 5,008 萬) 註：1.特別提款權(Special Drawing Rights, SDR)為國際貨幣基金帳面幣 |

| | |
|--------------------------|---|
| | <p>值單位。</p> <p>2.折合新台幣金額係以 97 年 10 月以前 2 年之新台幣對美元平均匯率、美元對特別提款權平均匯率換算結果。1 單位 SDR 約折合新台幣 50.0176 元。上開新台幣金額，公告後維持 2 年不變。</p> |
| 附註 | <p>1.聲明排除適用部分，如外交部駐外單位之工程採購。</p> <p>2.列明國防部適用本協定之產品項目清單。</p> <p>3.國家實驗研究院國家太空中心之採購有五年緩衝期。</p> |
| 附件二(Annex 2) | |
| 適用機關 | 台灣省政府、台北市政府、高雄市政府 |
| 個案開放門檻金額 | <p>財物：20 萬特別提款權(約折合新台幣 1,000 萬)</p> <p>勞務：同上</p> <p>工程：1500 萬特別提款權(第一年)(約折合新台幣 7 億 5,026 萬)</p> <p>1000 萬特別提款權(第二年)(約折合新台幣 5 億 0,017 萬)</p> <p>500 萬特別提款權(第三年起)(約折合新台幣 2 億 5,008 萬)</p> |
| 附件三(Annex 3) | |
| 適用機關 | 部分公營事業、公立醫院及國立院校 |
| 個案開放門檻金額 | <p>財物：40 萬特別提款權(約折合新台幣 2,000 萬)</p> <p>勞務：同上</p> <p>工程：同附件二(Annex 2)</p> |
| 附註 | 聲明中央印製廠印鈔機採購排除適用。 |
| 附件四(Annex 4) | |
| 適用之服務項目 | 依據聯合國中央貨品分類號列方式，包括法律、會計、建築、土木、都市規劃等五十餘項，並以 GATS 之承諾事項為依據。 |
| 附註 | 聲明排除項目：如研究發展、鑄幣。 |
| 附件五(Annex 5) | |
| 適用之工程服務項目 | 聯合國中央貨品分類第五十一章所標示之土木、建築等工程項目。 |
| 總附註(General Note) | |
| 特別聲明事項 | 與其他會員之互惠條件、電力、運輸保留調適期之項目等 |

Q3: According to our offer for accession to the GPA, what are the procuring entities covered by the GPA? What are the thresholds of market access of the procurement?

Answer:

The major contents of the offer we submitted to the WTO are as follows (individual procuring threshold of market access is based on the offer of other GPA members):

Annex 1

| | |
|-------------------|--|
| List of entities: | Office of the President, Executive Yuan and central government entities. |
| Thresholds | <p>Goods: 130,000 SDRs (approx. 6.50 million NTD)</p> <p>Services: 130,000 SDRs (approx. 6.50 million NTD)</p> <p>Construction: 5,000,000 SDRs (approx. 250.08 million NTD)</p> <p>Note:</p> <ol style="list-style-type: none"> 1. SDR (Special Drawing Right) is published by the International Monetary Fund (IMF). 2. The above NTD amount is calculated by the average exchange rate of NTD to USD, USD to SDR from November 2006 to October 2008. 1SDR is equivalent to 50.0176 NTD approximately. The NTD value will remain unchange for 2 years after announcement. |
| Notes | <ol style="list-style-type: none"> 1. Exclusions from the agreement, such as construction procurement by the overseas embassies, representative offices, and missions of Ministry of Foreign Affairs. 2. Positive list of procurement by the Ministry of National Defense. Five-year transitional period for the procurement by the National Space Organization of the National Science Council. |

Annex 2

| | | |
|-------------------|---|--|
| List of entities: | Taiwan Provincial Government, Taipei City Government, Kaohsiung City Government | |
| Thresholds: | Goods: | 200,000 SDRs (approx. 10.00 million NTD) |
| | Services: | 200,000 SDRs (approx. 10.00 million NTD) |
| | Construction: | <p>(1st year) 15,000,000 SDRs (approx. 750.26 million NTD)</p> <p>(2nd year) 10,000,000 SDRs (approx. 500.17 million NTD)</p> <p>(from the 3rd year on) 5,000,000 SDRs</p> <p>(approx. 250.08 million NTD)</p> |

Annex 3

| | | |
|-------------------|---|--|
| List of entities: | Part of the state-owned enterprises, national schools and public hospitals. | |
| Thresholds: | Goods: | 400,000 SDRs (approx. 20.00 million NTD) |
| | Services: | 400,000 SDRs (approx. 20.00 million NTD) |
| | Construction: | <p>(1st year) 15,000,000 SDRs (approx. 750.26 million NTD)</p> <p>(2nd year) 10,000,000 SDRs (approx. 500.17 million NTD)</p> <p>(from the 3rd year on) 5,000,000 SDRs</p> <p>(approx. 250.08 million NTD)</p> |

| | |
|-------|---|
| Notes | The procurement by Central Engraving & Printing Works of banknote printing press is excluded. |
|-------|---|

Annex 4

| | |
|-----------------------------------|---|
| Services covered by the agreement | <ol style="list-style-type: none"> 1. Positive list covered by the Agreement according to the UN Central Product Classification (CPC). 2. Including more than 50 kinds of services, such as legal services, accounting, architectural services, engineering services, urban planning and landscape architectural services, etc. 3. The services coverage of the market access will be subject to our commitments under WTO/GATS. |
| Notes | Exclusions such as research and development, coin minting. |

Annex 5

| | |
|---|--|
| Construction services covered by the agreement: | Listed construction services covered in CPC 51, including architectural services, engineering services, etc. |
|---|--|

General Note

| | |
|---------------|---|
| Special Notes | Including reciprocal terms with other GPA members, and exclusions to our offer. |
|---------------|---|

問題 4: 政府採購公告於何處刊登？是否有英文招標公告？招標公告是否載明適用 GPA？

擬答：

- 一、政府採購公告刊登於政府採購公告資訊系統(web.pcc.gov.tw)。
- 二、適用 GPA 之案件應於政府採購公告資訊系統刊登英文摘要招標公告（含招標機關名稱及地址、招標標的、領投標期限、領標處所）。
- 三、適用 GPA 之案件應於招標公告載明適用 GPA。

Q4: Where the tender notices being published for individual procuring case? Will the procurement entities provide English tender notices? Does the tender notice specify that the tender is applicable to the GPA?

Answer:

1. The tender notices of government procurement are published on Government Procurement Information System, website : <http://web.pcc.gov.tw>.
2. The tender covered by the GPA will have a summary tender notice in English, including procurement entity name and address, subject of tender, deadline for submission of tender, place of collecting tender documentation).
3. The procurement cases covered by the GPA will be noted in tender notices.

問題 5：機關是否提供外文招標文件？

擬答：

機關可僅提供中文（正體字）之招標文件。個案是否提供英文招標文件，由個別機關決定。

Q5: Do the procurement entities provide tender documentation in foreign language?

Answer:

The procurement entities may only provide tender documentation in traditional Chinese. In terms of the individual procuring case, the procurement entity may decide whether tender documentation in English will be provided.

問題 6：廠商可否以外文投標？

擬答：

機關可於招標文件規定投標文件須以中文（正體字）為之，也可規定外文資格文件須附經公證或認證之中文譯本。個案是否允許以英文投標，視個案招標文件之規定而定。

Q6: Can suppliers submit tender in foreign language?

Answer:

The procurement entities may prescribe in the tender documentation that the tender shall be prepared in traditional Chinese.

In terms of the individual procuring case, the procurement entity may decide and prescribe in the tender documentation whether it accepts tender in English.

問題 7：廠商可否以外幣報價？

擬答：

機關可於招標文件規定限以新臺幣報價，憑外國廠商在台營業代理人之統一發票領款。個案是否允許以外幣報價，視個案招標文件之規定而定。

Q7: Can a supplier submit its bid in foreign currency?

Answer:

The procurement entities may prescribe in the tender documentation that suppliers can only submit bids in NT dollars, and that payment be made by unified invoice issued by local business agent of foreign suppliers. In terms of whether the individual tender allows suppliers to submit bids in foreign currency, the procurement entity may decide and prescribe in the tender documentation.

問題 8：如何認定貨品的原產地？如何認定外國廠商的國籍？

擬答：

- 一、財物之原產地依「進口貨物原產地認定標準」認定其原產地，例如貨物之加工或製造雖未造成稅則號列 6 位數字改變，但已完成重要製程或附加價值率超過百分之三十五以上者，其最終實質轉型之國家或地區視為該項貨物之原產地。
- 二、勞務之原產地依實際提供勞務者之國籍或登記地認定之；屬自然人者，依國籍認定之；非屬自然人者，依登記地認定之。
- 三、工程採購：涉及財物或勞務之提供者，準用上開認定方式。

Q8: How does it identify the origin of goods and the nationality of foreign suppliers?

Answer:

1. The origin of goods is stipulated by “Regulations Governing the

Determination of Country of Origin of an Import Good”, for instance, even though the processing or production of the goods does not make a change in its customs tariff code in 6 digits, in the event that there has been major process involved and completed, or value-added rate is more than 35%, the substantive transformation of ultimate country or region shall be determined as the origin of goods.

2. The origin of services shall be verified by nationality or registration place of actual service provider. If actual service provider belongs to natural person, it is verified by his/her nationality; other than natural person, it is verified by registration place.
3. The origin of construction: the construction which includes the supply of goods or services, the aforementioned verification rules shall apply *mutatis mutandis*.

問題 9：我國依「振興經濟擴大公共建設投資特別條例」辦理之採購有無限定採購國產品？（註：美國「振興經濟法案」所附加之「購買美國貨」條款，於參議院通過時已修正為「須符合在國際協議下的責任」；亦即美國作為 GPA 簽署國，仍須遵守 GPA 規定，對於美國振興經濟法案中適用 GPA 之採購，不得限定購買美國貨）

擬答：

我國對於適用 GPA 之採購，除 GPA 允許之情形外，不會限定購買國產品。

Q9: Is there any stipulation to "Buy National" in the "Special Statute for Economic Stimulus Plan"? (p.s. In terms of the Buy American provisions of the American Recovery and Reinvestment Act 2009, the U.S. Congress made clear that the Act will be administered "in a manner consistent with United States' obligations under international agreements". The U.S. needs to comply with the GPA rules as the signatory of the GPA, for those procurement covered by to

the GPA, "Buy American" is not applicable)

Answer:

For those procurement covered by the GPA, we will not apply "Buy National", except otherwise provided by the GPA.

問題 10：加入 GPA 後，相關政府採購是否要求實施工業合作計畫？

擬答：

對於適用 GPA 之採購，將依照政府採購協定辦理，少數運輸項目訂有過渡性措施，例如運輸項目 HS8601 鐵路機車，我國於 100 年 12 月 31 日以前可進行採購金額 50% 以內之工業合作補償性措施。

Q10: Once becoming a party to the GPA, will procuring entities adopt Industry Corporation Programs (ICPs) measures ?

Answer:

Taiwan will adopt ICPs measures under the norms of the GPA for procurements covered by the GPA, including few transitional measures regarding transport. For example, HS code 8601 Rail locomotives, up to 50 percent of the procurement amount can be used for offset purposes before December 31, 2011.

問題 11：外國建築師或技師是否可逕至我國提供服務？

擬答：

外國專業服務業者例如建築師、技師或律師等，欲於我國提供服務，仍須取得我國執照，或經由國與國相互認許資格，並非毫無限制之開放。

Q11: May foreign architect or professional engineer directly provide professional services in Taiwan?

Answer:

If the foreign professional services supplier, such as architects,

professional engineers or lawyers, offer professional services in Taiwan, he/she shall possess Taiwan's related license, or be qualified through mutual recognition between Taiwan and other countries. It's not fully open without licensing restrictions.

問題 12：外國營造業來台投標，有無需取得我國營造業登記、公會會員證？

擬答：

外國營造業投標之資格文件，營造業登記證，外國營造業須於投標前取得；公會會員證可以於履約前再請領。

Q12: If a foreign construction company plans to bid in Taiwan, is it necessary to possess Taiwan construction certificate and local business membership certificate?

Answer:

For foreign suppliers, construction certificate shall be possessed before bidding, and business membership certificate may be possessed before they perform contracts.

問題 13：於簽署 GPA 後，適用 GPA 採購案可否不允許外國廠商單獨投標，只允許外國廠商與國內廠商共同投標？

擬答：

就適用 GPA 採購案，採購機關不得要求外國廠商須與國內廠商共同投標。

Q13: Once becoming a party to the GPA, will procuring entities request foreign suppliers to participate in joint ventures with local suppliers?

Answer:

Procuring entities will not request foreign suppliers to participate in joint ventures with local suppliers for procurements covered by the GPA.