

**TRANSPARENCY OF CONTRACT AWARD DECISIONS**

Communication from Canada

The following communication, dated 26 September 2002, has been received from the Permanent Mission of Canada with the request that it be distributed to all Members.

**Flexibility to choose criteria for awarding contracts**

Members need flexibility to establish the criteria for deciding on the award of a contract. The criteria for awarding a contract express a government's needs and its priorities as they are to be carried out in a procurement. As agreed by Ministers at Doha, a transparency agreement "...will not restrict the scope for countries to give preferences to domestic supplies and suppliers". Therefore, a government may freely make its own choices regarding the award criteria to apply to a procurement, such as price, the preferred characteristics of the product, any preferences for local suppliers<sup>1</sup>, the supplier's ability to meet minimum legal and technical requirements and any other requirement considered relevant by the government. Flexibility should also exist to establish the criteria for separate qualification or registration processes (if they are used), since qualification and registration are steps in the determination of which supplier will be awarded a contract.

**Transparency of award decisions**

Within the context of flexibility for choice of award criteria, transparency of decisions can be assured by:

- specifying the chosen award criteria and other requirements in the tender documentation, registration or qualification documentation or other information that is provided to all participating suppliers;
- basing award decisions solely on the criteria provided to all participating suppliers; and
- making information available to suppliers and other parties on award decisions.

Governments should not be required to disclose confidential information.

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<sup>1</sup> Utilized only to the extent consistent with a country's other international trade obligations related to that procurement.

## **Benefits of transparency of award decisions**

### *1. Efficiency of the international trading system:*

- The importance of transparency, predictability and consistency in the application of measures relating to international trade has been recognized since the GATT 1947.
- Government procurement is an important contributor to world trade. Most governments, like Canada, cannot supply all their government needs through domestic sources. Even where bidding can be restricted to domestic sources, those sources will need to draw on inputs from other parts of the world.

### *2. Economic efficiency:*

- Procuring organizations and the taxpayer will get better value for their money through lower prices and better products.
- By providing clear information on the basis for making decisions, potential suppliers will be able to make informed decisions about whether to bid.
- Potential suppliers will be able to make better bids if they understand the government's needs and priorities.
- Providing information on local content or other requirements for domestic benefits permits potential suppliers, domestic and foreign, to seek effective and efficient ways of meeting these requirements;
- Potential suppliers from other countries will understand whether they may bid, thus avoiding wasted effort bidding on requirements for which they are not eligible.
- Potential sub-contractors will be able to make more effective proposals to possible prime contractors.
- Providing feedback on the outcome of an award permits bidders to prepare better bids in the future.

### *3. Confidence in the procurement system:*

- Predictability and confidence in the government procurement system is ensured through consistency in describing applicable criteria and following the criteria for award of contracts.
  - Transparency of award decisions reduces the possibility of corruption.
  - Providing feedback on the outcome of the award of a contract establishes confidence that the criteria have been applied as described.
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