

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Special Distribution

Committee on Government Procurement

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## ADDITIONAL INFORMATION CONCERNING THE TREATMENT OF HIGH-PRICED BIDS

Replies to Questions Contained in GPR/W/64

### Addendum

The following replies have been submitted by the delegations of Canada, Sweden and the United States.

- (a) Does an entity pre-determine a standard price in view of helping competent officers to judge whether the tenders are too high or not?

#### CANADA

The Canadian Financial Administration Act requires entities to maintain commitment controls and not to enter into contracts unless there is a sufficient unencumbered balance available in their budgets to cover the cost of the contract. Entities requisitioning goods from the central procurement agency are therefore required to show the estimated cost on each requisition. As a practical arrangement the central procurement agency may, unless otherwise stated on the requisition, exceed the estimated cost by up to 15 per cent or \$50,000 Canadian whichever is the less. Otherwise, the central procurement agency must go back to the requisitioning entity to request additional funds.

#### SWEDEN

Predetermination of standard price is not practised in Swedish government procurement. Entities are required to make use of the competition between suppliers both inside and outside Sweden in order to attain the best possible value for appropriated funds.

#### UNITED STATES

United States entities do not establish pre-determined standard prices.

- (b) In case an entity does not predetermine a standard price, how can it avoid an arbitrary judgement of the high-priced bids and keep the competition fair?

#### CANADA

Tenders are evaluated on the basis of all elements stipulated in the Invitation to Tender with the objective of accepting the lowest price

responsible tender, provided it represents fair value. Fair value is judged on the basis of the contracting officer's product-knowledge and past experience with similar purchases.

SWEDEN

Procuring entities are of course following the market developments for the products they usually procure.

If an entity finds submitted bids to be too highly priced, the entity has authority to reject all of them. As an alternative the entity may invite the same suppliers or an extended group of suppliers to submit new tenders.

According to the Swedish government procurement regulations entities are required always "to investigate and make use of the competition that can exist between potential suppliers domestically or internationally".

UNITED STATES

Under the United States procurement system, competition is relied upon to ensure that prices paid on government contracts are reasonable. As a general rule, if there is competition, prices are assumed to be reasonable. There are serious penalties for firms that collude regarding prices in government contract competitions. In the event that only one firm bids on a contract, prices receive closer scrutiny. For off-the-shelf items, a sole bid might be compared to previous bids or the price at which the product is being sold on the open market. For commodities, a sole bid might be compared to current market prices. For custom designed products, a sole bid would be compared to the agency's cost and price analyses for the product. Where these comparisons indicate that offered prices may be unreasonably high, the contracting officer will recheck his or her information and, if necessary, then seek an explanation from the seller. If, following this step, the contracting officer continues to believe that the offered price is too high, he or she must terminate the purchasing process and either resolicit bids or refrain from buying the product.

(c) What kind of criterion do the Parties adopt in order to conclude contracts within a limited budget?

CANADA

Fair price and limited budget are seen as two separate issues. Fair price is sought through competition. Notwithstanding the offer of a fair price by the lowest qualified bidder, budgetary constraints may prevent the entity from entering into the contract for the original quantity.

SWEDEN

An entity shall, through the use of the competition in the marketplace, strive to keep procurement costs within budgetary limits. If the budgetary limit cannot be kept the entity is obliged to make a choice between requesting increased budgetary appropriations or reducing its overall purchases.

UNITED STATES

Before making any purchase, United States entities must ensure that there are sufficient funds available in their budget. Therefore, prior to soliciting bids, the purchasing office must estimate the cost of the product to be purchased and determine that this cost is within budgetary limits. If the bids significantly exceed this budget estimate, then the entity must reexamine whether the purchase can be made within budgetary limits. If these limits are not exceeded, a contract is concluded. Otherwise, the purchase is cancelled.