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UPDATING OF INFORMATION ON REGULATIONS AND
PROCEDURES OF OECD MEMBER COUNTRIES

Addendum

In response to paragraph 2 of GATT/AIR/1363 the following communications have been received from Canada, the Nordic Countries (Finland, Iceland, Norway and Sweden), Portugal and the United States.

CANADA

GATT airgram 1363 of 6 April 1977 invited governments of OECD member countries to update the information contained in the OECD publication "Government Purchasing". Attached is a Canadian Government paper listing the few changes made to the publication to better reflect current procedures and practices.

I. Regulations in force

The Department of Supply and Services makes purchases for departments and agencies of the Government of Canada. The operation of the Department of Supply and Services is governed by the Department of Supply and Services Act, 1969 and the Defence Production Act, 1951.

The procedures governing the calling of bids are those prescribed in the Government Contracts Regulation made pursuant to the Financial Administration Act, by Order in Council P.C. 1975-2042 of 27 August 1975. The legislation and regulations are applicable to purchases made on behalf of departments, boards, commissions and departmental corporations which are deemed to be under direct control of the federal government.

II. Procurement procedures applied

Government contract regulations provide for obtaining bids by public advertising or from representative lists of suppliers. The latter is the most common procedure. Single bids (private contracts) are permitted under the following circumstances:

1. the need is one of pressing emergency in which delay would be injurious to public interest, or
2. there is only one available source of supply, or
3. the nature of the work is such that it would not be in the public interest to invite bids.

III. Publicity for inviting tenders

A large majority of the procurements are solicited from lists of qualified suppliers (Selective Procedures). A limited use of public advertising is made for certain procurements where such a practice is accepted by industry.

Time-limit granted to bidders

The time-limit granted to bidders depends upon the nature of the goods or services required. The time-limit for procurement of simple "off the shelf" items varies from several days to three weeks. For more costly or complex purchases the time-limit for tendering may exceed a month.

IV. Requirements laid down for possible suppliers

The Department of Supply and Services maintains lists to which any firm with the necessary qualifications can be added. Unless bids are by public advertisement, only firms mentioned in the lists are invited.

Security for contracts

The Government contracts regulations provide that security shall be obtained where the Minister considers it in the public interest to obtain security for the due performance of a contract. As a general rule, security is not a consideration for the large majority of contracts.

V. Criteria for assessing bids and awarding contracts

The Department of Supply and Services solicits bids either through the use of an Invitation to Tender or a Request for Proposal. If the Invitation to Tender method is utilized, the bids are opened publicly. The main factors governing the choice of bidder are: price, financial responsibility of the contractor, competence, adequacy of plant and equipment. Normally the award is given to the lowest bidder. When this is not felt appropriate, the case must be referred to the Treasury Board whenever the amount exceeds a predetermined limit. Treasury Board then makes the decision taking all relevant factors into account.

VI. Disclosure of bids received and contracts awarded

The Department of Supply and Services regularly publishes the award of unclassified contracts for a value of over \$10,000. In the case of non-public openings, Department of Supply and Services will, upon request, and after a contract has been awarded, release the name and bid of all other bidders.

VII. Treatment granted to domestic and foreign products and/or suppliers

In Canada no existing act or regulations impose restrictions on Federal Government procurement from other countries. It is customary to grant a small preference to goods of Canadian origin. Normally the premium paid is 10 per cent of the difference in price of the foreign content in the bids being evaluated, rather than on the difference in price of bids. In the situation mentioned above where the Treasury Board authority is required for the entry into a contract, the decision whether or not to grant a preference is taken at Treasury Board level and, in important cases, a reference may be made to Cabinet. Preference is consequently not granted to Canadian suppliers in a routine manner. The existing arrangements do not exclude that in particular instances, under special circumstances, a preference of more than 10 per cent may be granted.

Import duties and other charges are included in the evaluation of foreign bids. In this respect, the application of the British Preferential Tariff or the General Preferential Tariff may make some difference between various foreign suppliers in certain cases.

VIII. Procedures for hearing and reviewing complaints

There does exist a well accepted practice whereby bidders, or prospective bidders, can question the reasons for their not being asked to submit a bid, or not being successful on a contract. The bidders, or prospective bidders, can appeal to any level above the contracting officer within the central purchasing

agency up to and including the Minister of Supply and Services. Protests are normally reviewed within the specific procurement service by senior authorities up to and including the Assistant Deputy Minister of that Service. An appeal may also be made directly to the Deputy Minister (Supply) or to the Minister of the Department by bidders, who wish to lodge a protest about any phase of the process.

In extreme cases, and after having pursued a previously mentioned route, a complainant may wish to ask for a review of the case by the Central Contract Approval Agency (Treasury Board) or approach the Prime Minister's office. Disputes arising out of the performance of a contract are normally referred to the senior departmental officials for resolution, failing which monetary claims arising from the dispute are referred to a Contracts Dispute Board. In considering a contractor's claim, the Board takes the position that the contractor has the unfettered right to a full hearing by the Board. Failing satisfaction, either party may claim normally in the Federal Court of Canada.

IX. Useful address

The principal purchasing authority in Ottawa is the Department of Supply and Services which acts as the central government procurement agency for both civil and military equipment and supplies. However, no one purchasing agency in the department presides over the total purchasing operation; instead a series of directors handle purchasing in specific areas such as general services, aircraft, electronics, shipbuilding and heavy equipment, etc. The most appropriate address for business enquiries is the following:

The Deputy Minister
Department of Supply and Services
Place du Portage, Phase 3
11 Laurier Street
Hull, Quebec
K1A 0S5

Despite the predominant rôle which the Department of Supply and Services plays in Government procurement, some other departments are responsible for some purchasing on a smaller scale.

NORDIC COUNTRIES

In GATT/AIR/1363 OECD member countries were invited to submit to the secretariat an updating of information contained in the OECD publication "Government Purchasing Regulations and Procedures of OECD Member Countries".

On behalf of Finland, Iceland, Norway and Sweden, I would like to inform you that these Nordic countries have not changed their regulations and procedures to such an extent as to necessitate an updating of the OECD publication.

PORTUGAL

With reference to airgram GATT/AIR/1363 of 6 April, I have the honour to inform you that, as regards the chapter on Portugal, there are no changes to be made to the information contained in the OECD publication "Government Purchasing; Regulations and Procedures of OECD Member Countries" (Paris, 1976).

UNITED STATES

In response to GATT/AIR/1363, the Government of the United States wishes to advise that the procurement policies and practices of the United States Federal Government as described in the publication, "Government Purchasing", published by the OECD in 1976 remains current except for the following two changes:

- (a) On page 120, first paragraph, delete reference to the Coast Guard. This organization is now a part of the United States Department of Transportation whose conduct of procurement is governed mainly by the Federal Property and Administrative Services Act of 1949.
- (b) On page 128, the carry-over sentence from the previous page, ending with the word "impracticable" (second line), should be footnoted with the following: "For a period of one year, under the Public Works and Employment Act of 1977, the requirement for use of domestic materials also attaches to certain State and local public works contracts funded by federal appropriations."