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**Canada
and
United States of America**

Agreement between the Government of Canada and the Government of the United States of America on Government procurement (with appendices). Mississauga, 11 February 2010, and Washington, 12 February 2010

Entry into force: *16 February 2010, in accordance with article 12*

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**Canada
et
États-Unis d'Amérique**

Accord entre le Gouvernement du Canada et le Gouvernement des États-Unis d'Amérique en matière de marchés publics (avec appendices). Mississauga, 11 février 2010, et Washington, 12 février 2010

Entrée en vigueur : *16 février 2010, conformément à l'article 12*

Textes authentiques : *anglais et français*

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[ENGLISH TEXT – TEXTE ANGLAIS]

AGREEMENT

BETWEEN

THE GOVERNMENT OF CANADA

AND

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

ON GOVERNMENT PROCUREMENT

THE GOVERNMENT OF CANADA and THE GOVERNMENT OF THE UNITED STATES OF AMERICA (hereinafter referred to as “the Parties”) have agreed as follows:

PART A

**Mutual Exchange Concerning Annex 2 Entities under the
WTO Agreement on Government Procurement**

ARTICLE 1

Notifications to the WTO Committee on Government Procurement

A Party shall provide to the other Party, as of February 16, 2010, access for procurement by the sub-central entities listed in its Annex 2 of Appendix I of the WTO Agreement on Government Procurement (hereinafter “1994 GPA”). To give effect to such reciprocal access, each Party shall submit, by February 16, 2010, a notification to the WTO Committee on Government Procurement as provided for under Article XXIV:6(a) of the 1994 GPA, as set out in Appendix A for Canada and in Appendix B for the United States of America (United States).

ARTICLE 2

Provincial and Territorial Compliance with 2007 Revised GPA

1. The Canadian entities listed in Canada's Annex 2 of Appendix I of the 1994 GPA shall be subject to the *Revised Text of the Agreement on Government Procurement (Articles I-XXI) as at 13 November 2007* (WTO Document negs 268 (19 November 2007)) (hereinafter "2007 Revised GPA"), until such time as a revised GPA enters into force for the Parties.
2. For greater certainty, the United States agrees that the entities listed in Canada's Annex 2 of Appendix I of the 1994 GPA shall not be subject to Articles I-XXIV of the 1994 GPA with respect to the United States.
3. With respect to procurement by the entities listed in Canada's Annex 2 of Appendix I of the 1994 GPA, the United States shall not resort to Article 10 of this Agreement or to dispute settlement in the World Trade Organization for a period of 12 months following the date of entry into force of this Agreement in relation to an alleged failure by Canada to comply with the 2007 Revised GPA, as provided for in paragraph 1, with respect to the following obligations of the 2007 Revised GPA:
 - (a) Article II:6(b) (with respect to the consideration of options in estimating the total value of the procurement) and 7 and 8 (with respect to the valuation of the estimated total value of the procurement);
 - (b) Article VII:2 and Article IX:4 (Content of Notices of Intended Procurement) with respect to the content of the notices, provided that the notices contain sufficient information to enable a supplier to determine its interest in a procurement and its ability to submit a responsive tender;
 - (c) Article IX:5, 7(b), 10 and 11 (Selective Tendering) with respect to any limitation on the number of suppliers, continuous publication of a multi-use list, right of suppliers to apply at any time for inclusion on a multi-use list, and ability of non-listed suppliers to request participation in a procurement based on a multi-use list within specified time periods;

- (d) Article XI:2 through 7 (Deadlines), provided that the procuring entity provides sufficient time for suppliers to prepare and submit requests for participation and responsive tenders, but in no event less than ten days from the date of publication of the notice of intended procurement and the date for submission of tenders or requests for participation;
- (e) Article XIII:2 (Report on Use of Limited Tendering), provided that the procuring entity maintains a record of each contract award using limited tendering;
- (f) Article XV:2 (Treatment of Delayed Tenders), with respect to the Province of New Brunswick;
- (g) Article XVI:1 (Information on Awards to Participating Suppliers) with respect to providing in writing information on the characteristics and relative advantages of the successful tender and Article XVI:2 (Publication of Award Information); and
- (h) Article XVIII:7(a) (Interim Measures) with respect to all provinces and territories and Article XVIII:7(b) (Remedies) with respect to the Yukon.

ARTICLE 3

Canada's Revised GPA Offer

Canada shall submit, by February 16, 2010, to the WTO Committee on Government Procurement in the ongoing negotiations under Article XXIV:7(b) of the 1994 GPA, a Revised Offer in which Canada shall offer the same coverage as set out in Appendix A of this Agreement.