

# Presidential Documents

## Title 3—

## Executive Order 12849 of May 25, 1993

### The President

### Implementation of Agreement With the European Community on Government Procurement

WHEREAS, the United States and the European Community (EC) have entered into a Memorandum of Understanding on Government Procurement (Agreement) that provides appropriate reciprocal competitive government procurement opportunities;

WHEREAS, the commitments made in the Agreement are intended to become part of an expanded General Agreement on Tariffs and Trade Agreement on Government Procurement (GATT Code) and are an important step toward an expanded GATT Code;

WHEREAS, as a result of these commitments, U.S. businesses will obtain increased access to EC member state procurement for U.S. goods and services;

WHEREAS, I have determined that it is inconsistent with the public interest to apply the restrictions of the Buy American Act, as amended (41 U.S.C. 10a–10d), to procurement covered by the Agreement;

NOW, THEREFORE, by virtue of the authority vested in me as President by the Constitution and the laws of the United States of America, including section 301 of title 3, United States Code, and title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–2518), and in order to implement the Agreement, it is hereby ordered as follows:

**Section 1.** In applying the provisions of the Buy American Act, the heads of the agencies listed in Annex 1, Parts A and B, of this order are requested, as of the date of this order, to apply no price differential between articles, materials, or supplies of U.S. origin and those originating in the member states of the EC.

**Sec. 2.** For purposes of this order, the rule of origin specified in section 308 of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2518), shall apply in determining whether goods originate in the member states of the EC.

**Sec. 3.** This order shall apply only to solicitations, issued by agencies listed in Annex 1, Parts A and B, of this order, above the threshold amounts set forth in Annex 2.

**Sec. 4.** This order shall apply to solicitations outstanding on the date of this order, except for those for which the initial deadline for receipt of bids or proposals has passed, and to all solicitations issued after the date of this order.

**Sec. 5.** Except for procurements by the Department of Defense, the United States Trade Representative (USTR) shall be responsible for interpretation of the Agreement. The USTR shall seek the advice of the interagency organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)) and consult with affected agencies, including the Office of Federal Procurement Policy.

**Sec. 6.** This Executive order is effective immediately. Although regulatory implementation of this order must await revisions to the Federal Acquisition Regulation (FAR), it is expected that agencies listed in Annex 1, Parts A and B, of this order will take all appropriate actions in the interim to implement those aspects of the order that are not dependent upon regulatory revision.

**Sec. 7.** Pursuant to section 25 of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 421(a)), the Federal Acquisition Regulatory Council shall ensure that the policies established herein are incorporated in the FAR within 30 days from the date this order is issued.

A handwritten signature in black ink that reads "William Clinton". The signature is written in a cursive style with a large, prominent initial 'W'.

THE WHITE HOUSE,  
*May 25, 1993.*

**Annex 1A**

Department of Agriculture

Department of Commerce

Department of Defense

Department of Education

Department of Energy

(Not including national security procurement made in support of safeguarding nuclear materials or technology and entered into under the authority of the Atomic Energy Act; and oil purchases related to the Strategic Petroleum Reserve)

Department of Health and Human Services

Department of Housing and Urban Development

Department of the Interior

Department of Justice

Department of Labor

Department of State

Department of Transportation

(The national security consideration currently applicable to the Department of Defense under the GATT Government Procurement Code is equally applicable under this Agreement to the Coast Guard)

Department of the Treasury

United States Agency for International Development

General Services Administration (other than Federal Supply Groups 51 and 52 and Federal Supply Class 7340)

National Aeronautics and Space Administration

Department of Veterans Affairs

Environmental Protection Agency

United States Information Agency

National Science Foundation

Panama Canal Commission

Executive Office of the President

Farm Credit Administration

National Credit Union Administration

Merit Systems Protection Board

ACTION Agency

United States Arms Control and Disarmament Agency

Office of Thrift Supervision

Federal Housing Finance Board

National Labor Relations Board

National Mediation Board

Railroad Retirement Board

American Battle Monuments Commission

Federal Communications Commission

Federal Trade Commission

Interstate Commerce Commission

Securities and Exchange Commission

Office of Personnel Management  
United States International Trade Commission  
Export-Import Bank of the United States  
Federal Mediation and Conciliation Service  
Selective Service System  
Smithsonian Institution  
Federal Deposit Insurance Corporation  
Consumer Product Safety Commission  
Equal Employment Opportunity Commission  
Federal Maritime Commission  
National Transportation Safety Board  
Nuclear Regulatory Commission  
Overseas Private Investment Corporation  
Administrative Conference of the United States  
Board for International Broadcasting  
Commission on Civil Rights  
Commodity Futures Trading Commission  
The Peace Corps  
National Archives and Records Administration

**Annex 1B**

The Power Marketing Administrations of the Department of Energy  
Tennessee Valley Authority

**Annex 2**

**Thresholds Applicable to Agencies listed in Annex 1A**

Goods contracts—130,000 SDRs (currently \$176,000)

Construction contracts—\$6,500,000

**Thresholds Applicable to Agencies listed in Annex 1B**

Goods contracts—\$450,000

Construction contracts—\$6,500,000