

CHAPTER TEN

GOVERNMENT PROCUREMENT

Article 10.1: Definitions

For purposes of this Chapter:

construction service means a service that has as its objective the realization by whatever means of civil or building works, based on Division 51 of the United Nations Provisional Central Product Classification (CPC);

in writing or **written** means any worded or numbered expression that can be read, reproduced and may be later communicated, and may include electronically transmitted and stored information;

limited tendering means a procurement method whereby the procuring entity contacts a supplier or suppliers of its choice;

multi-use list means a list of suppliers that a procuring entity has determined satisfy the conditions for participation in that list, and that the procuring entity intends to use more than once;

notice of intended procurement means a notice published by a procuring entity inviting interested suppliers to submit a request for participation, a tender, or both;

offset means any condition or undertaking that encourages local development or improves a Party's balance-of-payments accounts, such as the use of domestic content, the licensing of technology, investment, counter-trade, and a similar action or requirement;

open tendering means a procurement method whereby all interested suppliers may submit a tender;

procuring entity means entity undertaking government procurement pursuant to each Party's laws and regulations governing government procurement listed in Annex 10-A, 10-B, and 10-C;

qualified supplier means a supplier that a procuring entity recognizes as having satisfied the conditions for participation;

selective tendering means a procurement method whereby the procuring entity invites only qualified suppliers to submit a tender;

services include construction services, unless otherwise specified;

supplier means a person or group of persons that provides or could provide a good or service to a procuring entity; and

technical specification means a tendering requirement that:

- (a) sets out the characteristics of:
 - (i) goods to be procured, including quality, performance, safety, and dimensions, or the processes and methods for their production; or
 - (ii) services to be procured, or the processes or methods for their provision, including any applicable administrative provisions; or
- (b) addresses terminology, symbols, packaging, marking, or labelling requirements, as they apply to a good or service.

Article 10.2: Objectives

The Parties recognize the importance of government procurement in trade relations, promoting the transparency of laws, regulations, and procedures, and developing cooperation between the Parties.

Article 10.3: Scope

Application of Chapter

1. This Chapter applies only as among Korea, the Kingdom of Bahrain and the United Arab Emirates. Accordingly, for the purposes of this Chapter, “Party” or “Parties” means, on the one hand, Korea, and on the other hand, the Kingdom of Bahrain or the United Arab Emirates, singly or collectively.

2. This Chapter applies to any measure regarding covered procurement.

3. For the purposes of this Chapter, covered procurement means government procurement:

- (a) by any contractual means, including purchase, rental or lease, with or without an option to buy;
- (b) for which the value, as estimated in accordance with paragraph 6, equals or exceeds the relevant threshold specified in a Party’s Schedule under Annex 10-A or Annex

10-B or Annex 10-C, at the time of publication of a notice of intended procurement;

(c) by a procuring entity; and

(d) that is not otherwise excluded from coverage under this Agreement.

Compliance

4. Each Party shall ensure that its procuring entities comply with this Chapter in conducting covered procurements. No procuring entity shall prepare or design a procurement, or otherwise structure or divide a procurement into separate procurements in any stage of the procurement, or use a particular method to estimate the value of a procurement, in order to avoid the obligations of this Chapter.

Schedules

5. Each Party shall specify the following information in its Schedule, included in Annex 10-A, Annex 10-B, and Annex 10-C:

(a) in Section A, the central government entities whose procurement is covered by this Chapter;

(b) in Section B, the sub-central government entities whose procurement is covered by this Chapter;

(c) in Section C, all other entities whose procurement is covered by this Chapter;

(d) in Section D, the goods covered by this Chapter;

(e) in Section E, the services, other than construction services, covered by this Chapter;

(f) in Section F, the construction services covered by this Chapter;

(g) in Section G, any General Notes; and

(h) in Section H, Publication of Information.

Valuation

6. In estimating the value of a procurement for the purposes of ascertaining whether it is a covered procurement, a procuring entity shall include the estimated maximum total value of the procurement over its entire duration, taking into account:

(a) all forms of remuneration, including any premiums, fees, commissions, interest or other revenue stream that may be provided for under the contract such as taxes,

duties, logistical support, financing cost, staff, and remuneration rates;

- (b) the value of any option clause; and
- (c) any contract awarded at the same time or over a given period to one or more suppliers under the same procurement.

Activities Not Covered

7. Notwithstanding to paragraph 3, this Chapter does not apply to:

- (a) the acquisition or rental of land, existing buildings or other immovable property or the rights thereon;
- (b) non-contractual agreements or any form of assistance that a Party, including its procuring entities, provides, including cooperative agreements, grants, loans, equity infusions, guarantees, subsidies, fiscal incentives, and sponsorship arrangements;
- (c) the procurement or acquisition of fiscal agency or depository services; liquidation and management services for regulated financial institutions; or services related to the sale, redemption, and distribution of public debt, including loans and government bonds, notes, and other securities;
- (d) public employment contracts;
- (e) procurement:
 - (i) conducted for the specific purpose of providing international assistance, including development aid;
 - (ii) funded by an international organization or foreign or international grants, loans or other assistance, to which procurement procedures or conditions of the international organization or donor apply; and
 - (iii) conducted under the particular procedure or condition of an international agreement relating to the stationing of troops or relating to the joint implementation by the signatory countries of a project.

Article 10.4: Exceptions

1. Nothing in this Chapter shall be construed to prevent a Party from taking any action or not disclosing any information that it considers necessary for the protection of its essential security interests relating to the procurement:

- (a) of arms, ammunition, or war material; or
- (b) indispensable for national security or for national defense purposes.

2. Subject to the requirement that the measure is not applied in a manner that would constitute a means of arbitrary or unjustifiable discrimination between the Parties where the same conditions prevail, or a disguised restriction on international trade between the Parties, nothing in this Chapter shall be construed to prevent a Party, including its procuring entities, from adopting or maintaining a measure:

- (a) necessary to protect public morals, order, or safety;
- (b) necessary to protect human, animal, or plant life or health;
- (c) necessary to protect intellectual property; or
- (d) relating to the good or service of a person with disabilities, philanthropic institutions, or prison labor.

Article 10.5: General Principles

1. The Parties recognize the role of government procurement in furthering the bilateral trade relation to promote growth and employment. Each Party, to the extent possible and if appropriate, conducts its government procurement in accordance with generally accepted government procurement principles as applied by that Party.

National Treatment and Non-Discrimination

2. With respect to any measure regarding covered procurement, each Party, including its procuring entities, shall accord immediately and unconditionally to the goods and services of the other Party, and to the suppliers of the other Party offering such goods or services, treatment no less favorable than the treatment that the Party, including its procuring entities, accords to domestic goods, services, and suppliers.
3. With respect to any measure regarding covered procurement, a Party, including its procuring entities, shall not:
 - (a) treat a locally established supplier less favorably than another locally established supplier on the basis of the degree of foreign affiliation to or ownership by a person of the other Party; or
 - (b) discriminate against a locally established supplier on the basis that the goods or services offered by that supplier for a particular procurement are goods or services of the other Party.

Further Negotiation

4. In the event that, after the entry into force of this Agreement, a Party offers a non-Party any advantages of access to its government procurement market, the former Party shall, upon request of the other Party, afford adequate opportunity to enter into negotiations with the other Party.

Procurement Methods

5.—A procuring entity shall use an open tendering procedure for covered procurement unless Article 10.9 or Article 10.10 applies.

Use of Electronic Means

6. The Parties shall endeavor to use electronic means in conducting covered procurement for the publication of procurement information, notices and tender documentation, and for the receipt of tenders.

7. When conducting covered procurement by electronic means, a procuring entity shall:

- (a) ensure that the procurement is conducted using information technology systems, and software, including those related to authentication and encryption of information, that are generally available and interoperable with other generally available information technology systems, and software; and
- (b) establish and maintain mechanisms that ensure the integrity of information provided by suppliers, including requests for participation and tenders.

8. Each Party shall endeavor to establish a single electronic system to facilitate the procurement process which covers procurement planning, selection of suppliers, and awarding of contracts.

Rules of Origin

9. For the purposes of covered procurement, a Party shall not apply rules of origin to goods or services imported from or supplied from the other Party that are different from or inconsistent with the rules of origin the Party applies at the same time in the normal course of trade to imports or supplies of the same goods or services from the same Party.

Offsets

10. With regard to covered procurement, a Party, including its procuring entities, shall not seek, take account of, impose, or enforce offsets except as otherwise provided in its Schedule, included in Annex 10-A, Annex 10-B, and Annex 10-C.

Article 10.6: Publication of Procurement Information

1. Each Party shall make publicly available its laws and regulations, its procedures, and, if applicable, standard contract clause mandated by its law or regulation regarding government procurement.
2. Each Party shall make available and update the information referred to in paragraph 1 through electronic means.
3. Each Party shall, on request, provide an explanation in response to an inquiry relating to the information referred to in paragraph 1.

Article 10.7: Notices

Notice of Intended Procurement

1. For each covered procurement, a procuring entity shall publish a notice of intended procurement in the appropriate paper or electronic means, through a single point of access, listed in Annex 10-A, Annex 10-B and Annex 10-C directly accessible and free of charge. The notices shall remain readily accessible to the public until at least the expiration of the time period for responding to the notice or the deadline for submission of the tender.
2. Except as otherwise provided in this Chapter, each notice of intended procurement shall include the following information, unless that information is provided in the tender documentation that is made available free of charge to all interested suppliers at the same time as the notice of intended procurement:
 - (a) the name and address of the procuring entity and other information necessary to contact the procuring entity and obtain all relevant documents relating to the procurement, and the cost and terms of payment to obtain the relevant documents, if any;
 - (b) a description of the procurement, including, if appropriate, the nature and quantity of the goods or services to be procured and a description of any options, or the estimated quantity if the quantity is not known;
 - (c) if applicable, the time frame for delivery of goods or services or the duration of the contract;
 - (d) if applicable, the address and any final date for the submission of requests for participation in the procurement;
 - (e) the address and the final date for the submission of tenders;
 - (f) the language or languages in which tenders or requests for participation may be submitted, if other than an official language of the Party of the procuring

entity;

- (g) a list and a brief description of any conditions for participation of suppliers, which may include any related requirements for specific documents or certifications that suppliers must provide; and
- (h) if, pursuant to Article 10.9, a procuring entity intends to select a limited number of qualified suppliers to be invited to tender, the criteria that will be used to select them and, if applicable, any limitation on the number of suppliers that will be permitted to tender.

Notice of Planned Procurement

3. Procuring entities are encouraged to publish as early as possible in each fiscal year a notice regarding their future procurement plans (hereinafter referred to as “notice of planned procurement”) which should include the subject matter of the procurement and the planned date of the publication of the notice of intended procurement..

Article 10.8: Conditions for Participation

1. A procuring entity shall limit any conditions for participation in a covered procurement to those conditions that ensure that a supplier has the legal and financial capacities and the commercial and technical abilities to fulfil the requirements of that procurement.

2. In establishing the conditions for participation, a procuring entity:

- (a) shall not impose any condition in order for a supplier to participate in a procurement, the supplier has previously been awarded one or more contracts by a procuring entity of a given Party or that the supplier has prior work experience in the territory of that Party unless this condition is objectively justifiable and linked to the subject matter of the procurement; and
- (b) may require relevant prior experience if essential to meet the requirements of the procurement.

Article 10.9: Qualification of Suppliers

Registration Systems and Qualification Procedures

1. A Party, including its procuring entities, may maintain a supplier registration system under which interested suppliers are required to register and provide certain information and documentation.

2. No Party, including its procuring entities, shall adopt or apply any registration system or qualification procedure with the purpose or the effect of creating unnecessary obstacles to the participation of suppliers of the other Party in its procurement.

Selective Tendering

3. If a procuring entity intends to use selective tendering, the procuring entity shall:

- (a) publish a notice of intended procurement that invites qualified suppliers to submit a request for participation in a covered procurement; and
- (b) include in the notice of intended procurement the information specified in Article 10.7.2(a), (b), (d), (g), and (h).

4. The procuring entity shall:

- (a) publish the notice sufficiently in advance of the procurement to allow interested suppliers to request participation in the procurement;
- (b) provide, by the commencement of the time period for tendering, at least the information in Article 10.7.2(c), (e), and (f) to the qualified suppliers that it notifies as specified in Article 10.14; and
- (c) allow all qualified suppliers to submit a tender, unless the procuring entity stated in the notice of intended procurement a limitation on the number of suppliers that will be permitted to tender and the criteria or justification for selecting the limited number of suppliers.

5. If the tender documentation is not made publicly available from the date of publication of the notice referred to in paragraph 3, the procuring entity shall ensure that the tender documentation is made available at the same time to all the qualified suppliers selected in accordance with paragraph 4(c).

Multi-Use Lists

6. A Party, including its procuring entities, may establish or maintain a multi-use list provided that it publishes annually, or otherwise makes continuously available by electronic means, a notice inviting interested suppliers to apply for inclusion on the list. The notice shall include:

- (a) a description of the goods and services, or categories thereof, for which the list may be used;
- (b) the conditions for participation to be satisfied by suppliers for inclusion on the list and the methods that the procuring entity or other government agency will

use to verify a supplier's satisfaction of those conditions;

- (c) the name and address of the procuring entity or other government agency and other information necessary to contact the procuring entity and to obtain all relevant documents relating to the list;
- (d) the period of validity of the list and the means for its renewal or termination or, if the period of validity is not provided, an indication of the method by which notice will be given of the termination of use of the list; and
- (e) the deadline for submission of applications for inclusion on the list, if applicable.

7. A Party, including its procuring entities, that establishes or maintains a multi-use list, shall include on the list, within a reasonable period of time, all suppliers that satisfy the conditions for participation set out in the notice referred to in paragraph 6.

8. If a supplier that is not included on a multi-use list submits a request for participation in a procurement based on the multi-use list and submits all required documents, within the time period provided for in Article 10.15, a procuring entity may examine the request. Subject to each Party's laws and regulations, the procuring entity shall not exclude the supplier from consideration in respect of the procurement unless the procuring entity is not able to complete the examination of the request within the time period allowed for the submission of tenders.

Article 10.10: Limited Tendering

1. If a procuring entity uses limited tendering, it may choose, according to the nature of the procurement, not to apply Article 10.7, Article 10.8, Article 10.9, Article 10.11, Article 10.12, Article 10.13, Article 10.14, or Article 10.15. A procuring entity may use limited tendering only under the following circumstances:

- (a) if, in response to a prior notice, invitation to participate, or invitation to tender:
 - (i) no tenders were submitted or no suppliers requested participation;
 - (ii) no tenders were submitted that conform to the essential requirements in the tender documentation;
 - (iii) no suppliers satisfied the conditions for participation; or
 - (iv) the tenders submitted were collusive;

provided that the procuring entity does not substantially modify the essential

requirements set out in the notices or tender documentation;

- (b) if the good or service can be supplied only by a particular supplier and no reasonable alternative or substitute good or service exists for any of the following reasons:
 - (i) the requirement is for a work of art;
 - (ii) the protection of patents, copyrights, or other exclusive rights; or
 - (iii) due to an absence of competition for technical reasons;
- (c) for additional deliveries by the original supplier or its authorized agents, of goods or services that were not included in the initial procurement if a change of supplier for such additional goods or services:
 - (i) cannot be made for technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services, or installations procured under the initial procurement, or due to conditions under original supplier warranties; and
 - (ii) would cause significant inconvenience or substantial duplication of costs for the procuring entity;
- (d) for a good purchased on a commodity market or exchange;
- (e) if a procuring entity procures a prototype or a first good or service that is intended for limited trial or that is developed at its request in the course of, and for, a particular contract for research, experiment, study, or original development. Original development of a prototype or a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the prototype or the first good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs. Subsequent procurements of these newly developed goods or services, however, shall be subject to this Chapter;
- (f) if additional services that were not included in the initial contract but that were within the objectives of the original tender documentation have, due to unforeseeable circumstances, become necessary to complete the construction services described therein. However, the total value of contracts awarded for additional services shall be reasonable, compared to the value of the initial contract, and in accordance with each Party's laws and legislations;

- (g) for new services consisting of the repetition of similar services which conform to a basic project for which an initial contract was awarded and for which the entity has indicated in the notice of intended procurement concerning the initial service that limited tendering procedures might be used in awarding contracts for such new services;
- (h) for purchases made under exceptionally advantageous conditions that only arise in the very short term, such as from unusual disposals, liquidation, bankruptcy, or receivership, but not for routine purchases from regular suppliers;
- (i) if a contract is awarded to the winner of a design contest, provided that:
 - (i) the contest has been organized in a manner that is consistent with this Chapter; and
 - (ii) the contest is judged by an independent jury with a view to award a design contract to the winner;
- (j) in so far as is strictly necessary if, for reasons of extreme urgency brought about by events unforeseeable by the procuring entity, the good or service could not be obtained in time by means of open or selective tendering; or
- (k) objectively justifiable and exceptional circumstances that are provided for in applicable existing laws and regulations require the conduct of a limited tender.

2. For each contract awarded in accordance with paragraph 1, a procuring entity shall prepare a report in writing, or maintain a record, that includes the name of the procuring entity, the value and kind of good or service procured, and a statement that indicates the circumstances and conditions described in paragraph 1 that justified the use of limited tendering.

Article 10.11: Negotiations

1. A Party may provide for its procuring entities to conduct negotiations in the context of covered procurement if:

- (a) the procuring entity has indicated its intent to conduct negotiations in the notice of intended procurement required under Article 10.7;
- (b) it appears from the evaluation that no tender is obviously the most advantageous in terms of the price or other specific evaluation criteria set out in the notice of intended procurement or tender documentation; and

- (c) there is a need to clarify the terms and conditions.
- 2. A procuring entity shall:
 - (a) ensure that any elimination of suppliers participating in negotiations is carried out in accordance with the evaluation criteria set out in the notice of intended procurement or tender documentation; and
 - (b) when negotiations are concluded, provide a common deadline for the remaining participating suppliers to submit any new or revised tenders.

Article 10.12: Technical Specifications

1. A procuring entity shall not prepare, adopt, or apply any technical specification or prescribe any conformity assessment procedure with the purpose or effect exclusively of creating an unnecessary obstacle to participation of suppliers of other Parties.
2. In prescribing the technical specifications for the goods or services being procured, a procuring entity shall, if appropriate:
 - (a) set out the technical specifications in terms of performance and functional requirements, rather than design or descriptive characteristics; and
 - (b) base the technical specifications on international standards, if these exist and are applicable, otherwise, on national technical regulations, recognized national standards or building codes.
3. If design or descriptive characteristics are used in the technical specifications, a procuring entity should indicate, if appropriate, that it will consider tenders of equivalent goods or services that demonstrably fulfil the requirements of the procurement by including words such as “or equivalent” in the tender documentation.
4. A procuring entity shall not prescribe technical specifications that require or refer to a particular trademark or trade name, patent, copyright, design, type, specific origin, producer, or supplier, unless there is no other sufficiently precise or intelligible way of describing the procurement requirements and provided that, in these cases, the procuring entity includes words such as “or equivalent” in the tender documentation.
5. For greater certainty, this Article is not intended to preclude a procuring entity from preparing, adopting, or applying technical specifications to promote the conservation of natural resources or the protection of the environment. Such specifications, where applicable, shall be based on international standards.

6. For greater certainty, this Chapter is not intended to preclude a Party, or its procuring entities, from preparing, adopting, or applying technical specifications required to protect sensitive government information, including specifications that may affect or limit the storage, hosting, or processing of such information outside the territory of the Party.

Article 10.13: Tender Documentation

1. A procuring entity shall promptly make available or provide on request to any interested suppliers tender documentation that includes all information necessary to permit the supplier to prepare and submit a responsive tender. Unless already provided in the notice of intended procurement, such documentation shall include a complete description of:

- (a) the procurement, including the nature, scope and, if known, the quantity of the goods or services to be procured or, if the quantity is not known, the estimated quantity and any requirements to be fulfilled, including any technical specifications, conformity assessment certification, plans, drawings, or instructional materials;
- (b) any conditions for participation of suppliers, including any financial guarantees, information, and documents that suppliers are required to submit in connection with the conditions for participation;
- (c) all evaluation criteria to be considered in the awarding of the contract, and, unless price is the sole criterion, the relative importance of those criteria;
- (d) if the procuring entity will conduct the procurement by electronic means, any authentication and encryption requirements or other requirements related to the submission of information by electronic means;
- (e) if there will be a public opening of tenders, the date, time, and place for the opening, and, if appropriate, the persons authorized to be present;
- (f) any other terms or conditions relevant to the evaluation of tenders; and
- (g) any date for delivery of goods or the supply of services.

2. Subject to any fees if applicable, a procuring entity should make relevant tender documentation publicly available through electronic means or a computer-based telecommunications network openly accessible, to all interested suppliers.

3. In establishing any date for the delivery of goods or the supply of services being procured, a procuring entity shall take into account factors such as the complexity of the procurement, the extent of subcontracting anticipated, and the realistic time required for production, de-stocking and transport of goods from the point of supply or for supply of

services.

4. A procuring entity shall promptly reply to any reasonable request for relevant information by an interested or participating supplier, provided that such information does not give that supplier an advantage over other suppliers.

Modifications

5. If, prior to the award of a contract, a procuring entity modifies the evaluation criteria or requirements set out in a notice of intended procurement or tender documentation provided to a participating supplier, or amends, or re-issues a notice or tender documentation, it shall publish or provide those modifications, or the amended or re-issued notice or tender documentation:

- (a) to all suppliers that are participating in the procurement at the time of the modification, amendment, or re-issuance, if those suppliers are known to the procuring entity, and in all other cases, in the same manner as the original information was made available; and
- (b) in adequate time to allow those suppliers to modify and re-submit their initial tender, as appropriate.

Article 10.14: Time Periods

General

1. A procuring entity shall, consistent with its own reasonable needs, provide sufficient time for a supplier to obtain the tender documentation and to prepare and submit a request for participation and a responsive tender, taking into account factors such as:

- (a) the nature and complexity of the procurement;
- (b) the extent of subcontracting anticipated; and
- (c) the time necessary for transmitting tenders by non-electronic means from foreign as well as domestic points if electronic means are not used.

Deadlines

2. The time period for covered procurement shall be in accordance with each Party's laws and regulations.

Article 10.15: Treatment of Tenders and Awarding of Contracts

Treatment of Tenders

1. A procuring entity shall receive, open and treat all tenders under procedures that guarantee the fairness and impartiality of the procurement process and the confidentiality of tenders.
2. If the tender of a supplier is received after the time specified for receiving tenders, the procuring entity shall not penalize that supplier if the delay is due solely to the mishandling on the part of the procuring entity.
3. If a procuring entity provides a supplier with an opportunity to correct unintentional errors of form, the procuring entity shall provide the same opportunity to all participating suppliers.

Awarding of Contracts

4. To be considered for an award, a tender shall be submitted in writing and shall, at the time of opening, comply with the essential requirements set out in the notice and tender documentation and be submitted by a supplier who satisfies the conditions for participation.
5. Unless a procuring entity determines that it is not in the public interest to award a contract, it shall award the contract to the supplier that the procuring entity has determined to be fully capable of fulfilling the terms of the contract and that, based solely on the evaluation criteria specified in the notice and tender documentation, submits:
 - (a) the most advantageous tender; or
 - (b) if price is the sole criterion, the lowest price.
6. Consistent with the terms of this Chapter, a procuring entity may require a supplier to comply with general terms and conditions pursuant to the terms of the contract.
7. If a procuring entity received a tender with a price that is abnormally lower than the prices in other tenders submitted, it may verify with the supplier that it satisfies the conditions for participation and is capable of fulfilling the terms of the contract.

Article 10.16: Post-Award Information

Information Provided to Suppliers

1. A procuring entity shall inform participating suppliers that have submitted a tender of the entity's contract award decision and, shall do so in writing.
2. To the extent practicable and consistent with its domestic laws and regulations, subject to Article 10.17, a procuring entity shall, on request, provide an unsuccessful supplier

with an explanation of the reasons why the procuring entity did not select the unsuccessful supplier's tender or an explanation of the relative advantages of the successful supplier's tender.

Maintenance of Records

3. A procuring entity shall maintain the documentation, records, and reports relating to tendering procedures and contract awards for covered procurement, including the records and reports provided for in Article 10.10, for at least three years after the award of a contract.

Article 10.17: Disclosure of Information

Provision of Information to Parties

1. In the case that the supplier of a Party submitted a tender to the procuring entity of the other Party, on request of that Party, the other Party shall provide promptly information sufficient to demonstrate whether a procurement was conducted fairly, impartially, and in accordance with this Chapter, including, if applicable, information on the characteristics and relative advantages of the successful tender, without disclosing confidential information. The Party that receives the information shall not disclose it to any supplier, except after consulting and obtaining written approval from the Party that provided the information.

Non-Disclosure of Information

2. Notwithstanding any other provision of this Chapter, a Party, including its procuring entities, shall not, except to the extent required by law or with the written authorization of the supplier that provided the information, disclose information that would prejudice legitimate commercial interests of a particular supplier or that might prejudice fair competition between suppliers.

3. Nothing in this Chapter shall be construed to require a Party, including its procuring entities, authorities, and review bodies, to disclose confidential information if that disclosure:

- (a) would impede law enforcement;
- (b) might prejudice fair competition between suppliers;
- (c) would prejudice the legitimate commercial interests of particular persons, including the protection of intellectual property; or
- (d) would otherwise be contrary to the public interest.

Article 10.18: Conduct of Procurement

Each Party shall ensure that criminal or administrative measures exist to address corruption in its government procurement. These measures may include procedures to render ineligible for participation in the Party's procurements, either indefinitely or for a stated period of time, suppliers that the Party has determined to have engaged in fraudulent or other illegal actions in relation to government procurement in the Party's territory. Each Party shall also ensure that it has in place policies and procedures to eliminate to the extent possible or manage any potential conflict of interest on the part of those engaged in or having influence over a procurement.

Article 10.19: Facilitation of Participation by SMEs

1. The Parties recognize the important contribution that SMEs can make to economic growth and employment and the importance of facilitating the participation of SMEs in government procurement.
2. If a Party maintains a measure that provides preferential treatment for SMEs, the Party shall ensure that the measure, including the criteria for eligibility, is transparent.
3. To facilitate participation by SMEs in covered procurement, each Party shall, to the extent possible and if appropriate:
 - (a) provide comprehensive procurement-related information that includes a definition of SMEs in a single electronic portal;
 - (b) endeavor to make all tender documentation available free of charge;
 - (c) conduct procurement by electronic means or through other new information and communication technologies; and
 - (d) consider the size, design, and structure of the procurement, including the use of subcontracting by SMEs.

Article 10.20: Financial Obligations

1. This Chapter does not entail any financial obligations to the Parties.
2. Each Party is responsible for any financial expenses to fulfill their role in this Chapter.

Article 10.21: Language

Each Party shall, where possible, endeavor to make the information referred to in Article 10.6 available in the English language in its publication of materials or information pursuant to Article 10.6.

Article 10.22: Review

Notwithstanding Article 16.1(Joint Committee), the Parties may review this Chapter within three years with a view to improving this Chapter in the future to facilitate access to each Party's government procurement market, or as agreed by the Parties.

Article 10.23: Contact Points

1. Exchange of information and cooperation shall be facilitated through the following contact points:

- (a) for UAE, Ministry of Economy;
- (b) for Korea, Ministry of Trade, Industry and Energy; and
- (c) for Bahrain, Ministry of Industry and Commerce.

2. Each Party shall notify the other Party of any change to its contact point.

Article 10.24: Cooperation

The Parties shall endeavor to cooperate, on matters relating to government procurement with a view to achieving a better understanding of each Party's respective government procurement systems and markets and improving the capacity of procurement stakeholders. Such cooperation may include:

- (a) exchanging information, to the extent possible, on Parties' laws, regulations, and procedures, and any modifications thereof;
- (b) encouraging inclusive and sustainable procurement to help ensure that the benefits of this Chapter are widely shared;
- (c) sharing experience on the use of electronic means in government procurement systems; and
- (d) promoting linkage and business to business relations to increase the understanding and awareness of this Chapter among the potential suppliers or businesses, especially SMEs.

Article 10.25: Committee on Government Procurement

1. The Parties hereby establish a Committee on Government Procurement (hereinafter referred to as “the Committee”), which shall comprise representatives of the Parties. The Committee shall meet on the request of a Party or the Joint Committee.
2. For the purposes of the effective implementation and operation of this Chapter, the functions of the Committee shall be:
 - (a) reviewing and monitoring the implementation and operation of this Chapter;
 - (b) discussing ways to facilitate cooperation between relevant entities of the Parties in the field of government procurement;
 - (c) reporting the findings of the Committee to the Joint Committee; and
 - (d) carrying out other functions as may be delegated by the Joint Committee in accordance with Article 16.1 (Joint Committee).