

**Draft**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**October 18, 2005**

**ANNEX 9**

**SECTION A -- CENTRAL LEVEL GOVERNMENT ENTITIES**

1. This Chapter applies to the entities of the central level government listed in each Party's Schedule to this Section where the value of the procurement is estimated, in accordance with paragraph 1 of Section G, to equal or exceed:

- (a) for procurement of goods and services:
  - (i) \$175,000, subject to subparagraph (a)(ii) and to adjustment in accordance with paragraph 3 of Section G (Threshold Adjustment Formula); and
  - (ii) in the case of Oman, for the two-year period following the date of entry into force of this Agreement, \$260,000 which shall not be subject to adjustment; and
- (b) for procurement of construction services:
  - (i) \$7,611,532, subject to subparagraph (b)(ii) and to adjustment in accordance with paragraph 2 of Section G (Threshold Adjustment Formula); and
  - (ii) in the case of Oman, for the two-year period following the date of entry into force of this Agreement, \$8,000,000 which shall not be subject to adjustment.

2. Unless otherwise specified in this Section, this Chapter applies to all agencies subordinate to the entities listed in each Party's schedule.

**Schedule of the Sultanate of Oman**

1. Ministry of Agriculture and Fisheries (Note 1)
2. Ministry of Awqaf and Religious Affairs (Note 2)
3. Ministry of Commerce and Industry
4. Ministry of Civil Service
5. Ministry of Education (Note 3)
6. Ministry of Foreign Affairs
7. Ministry of Higher Education
8. Ministry of Housing, Electricity And Water (Note 4)
9. Ministry of Information (Note 5)

**Draft**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**October 18, 2005**

10. Ministry of Heritage and Culture
11. Ministry of Finance
12. Ministry of Health
13. Ministry of Oil and Gas
14. Ministry of National Economy
15. Ministry of Justice
16. Ministry of Legal Affairs
17. Ministry of Manpower
18. Ministry of Regional Municipalities and Environment and Water Resources
19. Ministry of Social Development
20. Ministry of Sports Affairs
21. Ministry of Tourism
22. Ministry of Transport and Communications (Note 6)
23. Muscat Governorate
24. Public Authority for Social Insurance
25. Public Authority for Handcraft
26. State Audit Institution
27. Supreme Committee for Town Planning
28. Telecommunication Regulatory Authority
29. Sohar Refinery Company
30. High Committee for National Day
31. Oman Refinery Company
32. Public Establishment for Industrial Estates
33. Oman Oil Company

**Notes to the Schedule of the Sultanate of Oman**

1. Ministry of Agriculture and Fisheries: The procurement of agricultural goods made in furtherance of agricultural support programs or human feeding programs are not covered by this Chapter.
2. Ministry of Awqaf and Religious Affairs: The procurement of construction services for buildings intended for religious purposes (CPC 54129) are not covered by this Chapter. (For a complete listing of the UN Central Product Classification, Version 1.1, see <http://unstats.un.org/unsd/cr/registry/regct.asp?Lg=1>.)
3. Ministry of Education: The procurement of printed materials for educational purposes (CPC 32230) is not covered by this Chapter.
4. Ministry of Information: This Chapter does not cover the acquisition, development, or production of program distribution services (CPC 84170).

**Draft**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**October 18, 2005**

5. Ministry of Transport and Communications: This Chapter does not cover procurement by the Civil Aviation Administration.

**Schedule of the United States**

1. American Battle Monuments Commission
2. Commission on Civil Rights
3. Commodity Futures Trading Commission
4. Consumer Product Safety Commission
5. Broadcasting Board of Governors
6. Corporation for National and Community Service
7. Department of Agriculture (*Note 1*)
8. Department of Commerce (*Note 2*)
10. Department of Education
11. Department of Energy (*Note 3*)
12. Department of Health and Human Services
14. Department of Housing and Urban Development
15. Department of the Interior, including the Bureau of Reclamation
16. Department of Justice
17. Department of Labor
18. Department of State
19. Department of Transportation (*Note 4*)
20. Department of the Treasury
21. Department of Veterans Affairs
22. Environmental Protection Agency
23. Equal Employment Opportunity Commission
24. Executive Office of the President
25. Export-Import Bank of the United States
26. Farm Credit Administration
27. Federal Communications Commission
28. Federal Deposit Insurance Corporation
29. Federal Housing Finance Board
30. Federal Maritime Commission
31. Federal Mediation and Conciliation Service
32. Federal Trade Commission
33. General Services Administration (*Note 5*)
34. Merit Systems Protection Board
35. National Aeronautics and Space Administration
36. National Archives and Records Administration
37. National Credit Union Administration
38. National Labor Relations Board
39. National Mediation Board
40. National Science Foundation

**Draft**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**October 18, 2005**

41. National Transportation Safety Board
42. Nuclear Regulatory Commission
43. Office of Personnel Management
44. Office of Thrift Supervision
45. Overseas Private Investment Corporation
46. Peace Corps
47. Railroad Retirement Board
48. Securities and Exchange Commission
49. Selective Service System
50. Smithsonian Institution
51. United States Agency for International Development (*Note 6*)
52. United States International Trade Commission

**Notes to the Schedule of the United States**

1. Department of Agriculture: The procurement of agricultural goods made in furtherance of agricultural support programs or human feeding programs are not covered by this Chapter.
2. Department of Commerce: this Chapter does not cover Shipbuilding activities of the U.S. National Oceanic and Atmospheric Administration (NOAA).
3. Department of Energy: National security procurements 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 are not covered by this Chapter.
4. Department of Transportation: This Chapter does not cover procurement by the Federal Aviation Administration.
5. General Services Administration: The procurement of the goods in the following FSC categories are not covered by this Chapter:

FSC 51	Hand Tools
FSC 52	Measuring Tools
FSC 7340	Cutlery and Flatware
6. United States Agency for International Development: Procurement for the direct purpose of providing foreign assistance is not covered by this Chapter.
7. The conditions specified in the General Notes apply to this Annex.

**Draft**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**October 18, 2005**

**SECTION B -- OTHER COVERED ENTITIES**

1. This Chapter applies to the other covered entities listed in each Party's Schedule to this Section where the value of the procurement is estimated, in accordance with paragraph 1 of Section G, to equal or exceed for procurement of:

(a) goods and services of

- (i) List A entities, \$250,000; or
- (ii) List B entities, \$538,000; and

(b) construction services for List A and List B entities: \$9,368,478

2. The monetary thresholds set out in subparagraph (a)(ii) shall be adjusted in accordance with paragraph 3 of Section G of this Annex. The monetary thresholds set out in subparagraph (b) shall be adjusted in accordance with paragraph 2 of Section G of this Annex.\*

**Schedule of the Sultanate of Oman**

**List A:**

- 1. Oman Gas Company
- 2. Oman Housing Bank
- 3. Oman Development Bank
- 4. Capital Market Authority/Muscat Securities Market
- 5. Sultan Qaboos University

**Schedule of the United States**

**List A:**

- 1. Tennessee Valley Authority
- 2. Bonneville Power Administration
- 3. Western Area Power Administration
- 4. Southeastern Power Administration
- 5. Southwestern Power Administration
- 6. St. Lawrence Seaway Development Corporation

**List B:**

- 1. Rural Utilities Service (Note 1)

**Draft**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**October 18, 2005**

**Notes to the Schedule of the United States**

1. The Rural Utilities Service agrees to:
  - (a) waive federal buy national requirements imposed as conditions of funding for all power generation projects; and
  - (b) apply procurement procedures equivalent to the procedures in the WTO Agreement on Government Procurement and national treatment to funded projects exceeding the thresholds specified above.

For greater certainty, this Chapter does not apply to any other aspect of procurement by the Rural Utilities Service, including any restrictions the Rural Utilities Service places on financing for telecommunications projects.

2. With respect to procurement by entities listed in this Annex, this Chapter does not apply to restrictions attached to Federal funds for airport projects.

\* *The proposed threshold levels will be modified in accordance with Section G on January 1, 2006.*

**SECTION C -- GOODS**

This Chapter applies to all goods procured by the entities listed in Sections A and B, subject to the Notes to the respective Sections and the General Notes.

**SECTION D -- SERVICES**

This Chapter applies to all services procured by the entities listed in Sections A and B, subject to the Notes to the respective Sections, the General Notes, and the Notes to this Section, except for the services excluded in the Schedules of each Party.

**Schedule of the Sultanate of Oman**

Chapter 9 (Government Procurement) does not cover the procurement of the following services:

- A. Research and Development: All Classes (CPC 81)

**Draft**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**October 18, 2005**

- B. Printing of revenue stamps, bank notes, and religious material
- C. Telecommunications services, information processing, and Telecommunications Network Management Services (CPC 84110, CPC 84121, CPC 8414 and CPC 8415)
- D. Utilities: All Classes (CPC 69)
- E. Transportation, Travel and Relocation Services: All Classes (CPC 661 for transport of people and CPC 662 for transport of freight)
- F. Arbitration and Conciliation Services (CPC 82191)
- F: Financial Intermediation Services, except Investment Banking, Insurance Services, and Pension Services, and Investment banking services (CPC 71100)

**Schedule of the United States**

This Chapter does not cover the procurement of the following services, as elaborated in the Common Classification System (*For complete listing of the Common Classification System, see <http://www.sice.oas.org/trade/nafta/chap-105.asp>.*)

- A. Research and Development  
All classes
- D. Information Processing and Related Telecommunications Services
  - D304 ADP Telecommunications and Transmission Services, except for those services classified as "enhanced or value-added services." For the purposes of this provision, the procurement of "ADP Telecommunications and Transmission Services" does not include the ownership or furnishing of facilities for the transmission of voice or data services.
  - D305 ADP Teleprocessing and Timesharing Services
  - D316 Telecommunications Network Management Services
  - D317 Automated News Services, Data Services or Other Information Services
  - D399 Other ADP and Telecommunications Services
- J. Maintenance, Repair, Modification, Rebuilding and Installation of Goods/Equipment

**Draft**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**October 18, 2005**

J019 Maintenance, Repair, Modification, Rebuilding and Installation of  
Equipment Related to Ships  
J998 Non-nuclear Ship Repair

M. Operation of Government-Owned Facilities: All facilities operated by the  
Department of Energy and the National Aeronautics and Space Administration; and  
for all entities:

M180 Research and Development

S. Utilities: All Classes

V. Transportation, Travel and Relocation Services: All Classes except V503 Travel  
Agent Services

**Notes to the Schedule of the United States**

1. All services purchased in support of military forces overseas are excluded from  
coverage of this Chapter.

**SECTION E -- CONSTRUCTION SERVICES**

This Chapter applies to all construction services procured by the entities listed in Sections  
A and B, subject to the Notes to the respective Sections, the General Notes, and the Notes  
to this Section, except for the construction services excluded in the Schedules of each  
Party.

**Schedule of the United States**

This Chapter does not cover the procurement of dredging services.

**Note to Section E**

Buy national requirements on articles, supplies, or materials acquired for use in  
construction services contracts covered by the Chapter shall not apply to goods of either  
Party.



**Draft**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**October 18, 2005**

**SECTION F -- GENERAL NOTES**

**Schedule of the Sultanate of Oman**

1. The Sultanate of Oman Government reserves the right to maintain their existing preference program established under Royal Decree 1/79, Article 21 and its successor programs to promote the development of its small and medium enterprises. Such program shall apply to the enterprises defined as small and medium enterprises in “A Glance at industry in Oman”, as published by the Directorate General of Industry, Ministry of Commerce and Industry.
2. This chapter does not apply to procurements by a government entity of a good or service obtained or acquired from another government entity.
3. This Chapter does not apply to procurements undertaken by a covered entity on behalf of a non-covered entity.
4. Where a contract is to be awarded by an entity that is not listed in Section A, this Chapter shall not be construed to cover any good or service component of that contract.
5. This Chapter does not apply to the procurement of transportation services that form a part of, or are incidental to, a procurement contract.

**Schedule of the United States**

1. This Chapter does not apply to the set asides on behalf of small or minority businesses. Set-asides include any form of preference, such as the exclusive right to provide a good or service and price preferences.
2. Where a contract is to be awarded by an entity that is not listed in Section A or B, this Chapter shall not be construed to cover any good or service component of that contract.
3. This Chapter does not apply to the procurement of transportation services that form a part of, or are incidental to, a procurement contract.

**Draft**  
**Subject to Legal Review for Accuracy, Clarity, and Consistency**  
**October 18, 2005**

**SECTION G -- THRESHOLD ADJUSTMENT FORMULA**

1. The thresholds shall be adjusted at two-year intervals with each adjustment taking effect on January 1, beginning on January 1, 2006.

2. With regard to the construction services threshold referred to in Section A (Central Level Government Entities) the United States shall calculate the U.S. dollar value for the threshold every two years, based on the U.S. Inflation rate measured by the Producer Price Index for Finished Goods published by the U.S. Bureau of Labor Statistics, using the two-year period that ends on October 31 in the year prior to the adjustment taking effect, and using the following formula:

$$T_0 \times (1 + \Pi_i) = T_1$$

$T_0$  = threshold value at base period

$\Pi_i$  = accumulated U.S. inflation rate for the “i”th two year-period

$T_1$  = new threshold value.

3. For goods and services for entities in Section A (Central Level Government Entities), and for goods and services for List B entities in Section B (Other Covered Entities), and for construction services in Section B, the thresholds are a conversion into U.S. dollars of the threshold listed in the U.S. Appendix to the World Trade Organization Agreement on Government Procurement, which is set out in Special Drawing Rights (SDRs) and listed below. Every two years, the United States shall calculate the adjustment of this threshold based on an average of the daily conversion rates of the U.S. dollar in terms of SDRs, published by the IMF in its monthly “International Financial Statistics,” for the two-year period preceding October 1 or November 1 of the year before the adjusted thresholds are to take effect:

- (a) 130,000 SDRs for goods and services for Section A entities; and
- (b) 400,000 SDRs for goods and services for Section B List B entities; and
- (c) 5,000,000 SDRs for construction services for Section B entities.

4. The United States shall notify Oman of the adjusted threshold values in December 1 of the year before the adjusted thresholds take effect in January.

5. The Parties shall consult bilaterally if a major change in a national currency vis-à-vis the other currency were to create a significant problem with regard to the application of the Chapter.