



STATE OF NEW YORK

GEORGE E. PATAKI
GOVERNOR

October 14, 2003

Dear Ambassador Zoellick:

I have reviewed your request that New York State offer to commit the same level of procurement coverage, now included in the Government Procurement Agreement (GPA), to future trade agreements with other nations.

As Governor of New York State, I am most fortunate to promote the interests of a global center of commerce, technology and innovation. As you know, I have been fully supportive of President Bush's ambitious agenda for trade liberalization, and value your leadership in expanding international market access. It is clear that New York companies are among the most competitive in the world. Both our business and taxpayer communities stand to benefit from increasingly open, transparent and fair international business opportunities. I would also note that, in contrast to New York's comparatively open contracting process, many other US states maintain a range of barriers and preferences to favor in-state firms. Overall, it would be detrimental to the competitiveness of both New York State and national businesses if foreign firms, benefiting from future trade agreements on procurement, gain greater access than our own domestic firms to certain US state markets.

Your request is another indication of the heightened importance of state-level practices and interests in the context of further international trade liberalization. Given this growing state role, regular consultations between state and federal colleagues on trade policy are essential. We commend you and your staff for having welcomed our State's participation in the Intergovernmental Policy Advisory Committee this year.

In response to your request, I am pleased to agree to allow the USTR to engage in negotiations leading to the expansion of international access to New York State procurement markets for state agencies, the state university system, public authorities and public benefit corporations, with the exception of those entities with multi-state mandates, per GPA commitments, with the following terms and conditions:

- The NYS "Contract Reporter," with its on-line version, will remain scheduled as an internationally recognized publication, meeting all GPA requirements;
- Federal officials will provide necessary resources and assistance to New York State agencies for procurement trade agreement implementation and compliance;
- Amendment of GPA-inconsistent New York State law is dependent upon approval by the New York State Legislature;



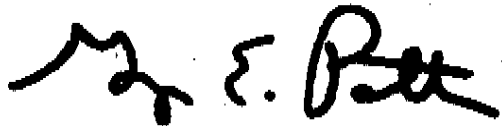
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- To be awarded a New York State contract, foreign and domestic companies must comply with all application New York State laws, regulations and non-discriminatory specifications;
- In the event that a New York State contract award is disputed by a foreign bidder, the procurement process will not be impeded or delayed, thereby preserving public interest and safety;
- In the event of a dispute settlement adverse to the US due to the actions of a New York State entity, New York State will not be held liable;
- No substantial changes to GPA commitments will be made in future trade agreements covering New York State procurement without providing New York State an opportunity for full review;
- New York State will not be required to consider bids from firms in nations or sub national jurisdictions which boycott firms doing business in Israel;
- Existing exceptions to coverage are maintained, and include:
 - all existing or future preferences and practices benefiting small, minority and women-owned businesses;
 - procurement contract awards made to New York State companies due to tie-bids;
 - procurement of transit cars, buses and related equipment, steel, coal, autos, and printing services, and
 - requirements designed to encourage economic development for the purpose of alleviating economic distress and to promote recycling and the state's environmental quality; and
- New York State reserves the right to reconsider our offer based on our examination of the final agreements and implementing legislation and their inclusion of our terms and conditions listed herein.

Very truly yours,



Ambassador Robert B. Zoellick
The United States Trade Representative
Office of the President
Washington, DC 20508