

# 25.403 World Trade Organization Government Procurement Agreement and Free Trade Agreements.

(a) *Eligible products* from *WTO GPA* and *FTA* countries are entitled to the nondiscriminatory treatment specified in [25.402\(a\)\(1\)](#). The *WTO GPA* and *FTAs* specify *procurement* procedures designed to ensure fairness (see [25.408](#)).

(b) *Thresholds*.

(1) To determine whether the *acquisition* of *products* by lease, rental, or lease-purchase contract (including lease-to-ownership, or lease-with-option-to purchase) is covered by the *WTO GPA* or an *FTA*, calculate the estimated *acquisition* value as follows:

(i) If a fixed-term contract of 12 months or less is contemplated, use the total estimated value of the *acquisition*.

(ii) If a fixed-term contract of more than 12 months is contemplated, use the total estimated value of the *acquisition* plus the estimated *residual value* of the leased equipment at the conclusion of the contemplated term of the contract.

(iii) If an indefinite-term contract is contemplated, use the estimated monthly payment multiplied by the total number of months that ordering would be possible under the proposed contract, *i.e.*, the initial ordering period plus any optional ordering periods.

(iv) If there is any doubt as to the contemplated term of the contract, use the estimated monthly payment multiplied by 48.

(2) The estimated value includes the value of all *options*.

(3) If, in any 12-month period, recurring or multiple awards for the same type of product or *products* are anticipated, use the total estimated value of these projected awards to determine whether the *WTO GPA* or an *FTA* applies. Do not divide any *acquisition* with the intent of reducing the estimated value of the *acquisition* below the dollar threshold of the *WTO GPA* or an *FTA*.

(c) *Purchase restriction*.

(1) Under the Trade Agreements Act ([19 U.S.C. 2512](#)), in *acquisitions* covered by the *WTO GPA*, acquire only U.S.-made or *designated country end products* or U.S. or *designated country* services, unless *offers* for such *end products* or services are either not received or are insufficient to fulfill the requirements. This purchase restriction does not apply below the *WTO GPA* threshold for *supplies* and services, even if the *acquisition* is covered by an *FTA*.

(2) This restriction does not apply to purchases of *supplies* by the Department of Defense from a country with which it has entered into a reciprocal agreement, as provided in departmental regulations.

**Parent topic:** Subpart 25.4 - Trade Agreements