

ANNEX 9-A-1

CENTRAL LEVEL OF GOVERNMENT ENTITIES

1. Chapter 9 (Government Procurement) applies to procurement by any central level government entity listed in a Party's Schedule to this Annex where the value of the procurement is estimated, in accordance with paragraphs 5 and 6 of Article 9.1 (Scope and Coverage), 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 Annex 9-F (Threshold Adjustment Formula); and
 - (ii) in the case of Bahrain, for the two-year period following the date of entry into force of this Agreement, \$200,000, 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 Annex 9-F (Threshold Adjustment Formula); and
 - (ii) in the case of Bahrain, 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, Chapter 9 (Government Procurement) covers all agencies subordinate to the entities listed in each Party's Schedule to this Annex.

SCHEDULE OF BAHRAIN

Chapter 9 (Government Procurement) applies to procurement by or on behalf of any entity listed in this Schedule, without regard to the juridical status of the entity.

1. Central Informatics Organization
2. Equestrian & Horse Racing Club
3. General Organization for Youth and Sports
4. Ministry of Interior (1)
5. Ministry of Cabinet Affairs
6. Ministry of Commerce
7. Ministry of Defense (1)
8. Ministry of Education
9. Ministry of Electricity & Water
10. Ministry of Finance & National Economy
11. Ministry of Foreign Affairs (2)
12. Ministry of Health
13. Ministry of Industry
14. Ministry of Information
15. Ministry of Islamic Affairs
16. Ministry of Justice
17. Ministry of Labor & Social Affairs
18. Ministry of Municipalities Affairs and Agriculture
19. Ministry of Oil
20. Ministry for the Shura Council & Representative Council Affairs
21. Ministry of Transportation (3)
22. Ministry of Works & Housing
23. National Guard (1)

24. Public Commission for the Protection of Marine Resources, Environment & Wildlife
25. Supreme Council for Oil
26. Survey & Land Registration Bureau
27. Tenders Board
28. Bahrain Monetary Agency (BMA)

Notes to Schedule of Bahrain

1. Ministry of Interior, Ministry of Defense, and the National Guard:

- (a) Goods: This Chapter does not cover the procurement of the following goods:

FSC 11	Nuclear Ordnance
FSC 18	Space Vehicles
FSC 19	Ships, Small Craft, Pontoons, and Floating Docks
FSC 20	Ship and Marine Equipment
FSC 2350	Combat, Assault & Tactical Vehicles, Tracked
FSC 51	Hand Tools
FSC 52	Measuring Tools
FSC 60	Fiber Optics Materials, Components, Assemblies, and Accessories
FSC 8140	Ammunition & Nuclear Ordnance Boxes, Packages & Special Containers

NB: Whether a good is included within the scope of this Note shall be determined solely according to the descriptions provided in the right column above. U.S. Federal Supply Codes are provided for reference purposes only. (For a complete listing of the United States Federal Supply Codes, to which the Bahrain categories are approximately equivalent, see <http://www.scrantonrtg.com/secrc/fsc-codes/fsc.html>.)

- (b) Services: The Chapter does not cover services in the following categories, as elaborated in the Common Classification System and the WTO system of classification – MTN.GNS/W/120 (for a complete listing of Common Classification System, see <http://www.tcc.mac.doc.gov/cgi-bin/doi.cgi?204:66:601961876:49#An1001.1b-2-B>):

Design, development, integration, testing, evaluation, maintenance, repair, modification, rebuilding and installation of military systems and equipment (approximately equivalent to relevant parts of U.S. Product Service Codes A & J).

- (c) This Chapter generally does not cover the procurement of the goods in the following categories, due to the application of Article 20.2 (Essential Security):

FSC 10	Weapons
FSC 12	Fire Control Equipment
FSC 13	Ammunitions and Explosives
FSC 14	Guided Missiles
FSC 15	Aircraft and Airframe Structural Components
FSC 16	Aircraft Components and Accessories
FSC 17	Aircraft Launching, Landing, and Ground Handling Equipment
FSC 19	Ships, Small Craft, Pontoons, and Floating Docks
FSC 20	Ship and Marine Equipment

FSC 28	Engines, Turbines, and Components
FSC 31	Bearings
FSC 58	Communications, Detection, and Coherent Radiation
FSC 59	Electrical and Electronic Equipment Components
FSC 70	Automatic Data Processing Equipment, Software, Supplies, and Support Equipment
FSC 95	Metal Bars, Sheets, and Shapes

2. Ministry of Foreign Affairs: This Chapter does not cover procurement of goods and services for the construction and operation of chanceries outside the territory of Bahrain.

3. Ministry of Transportation: This Chapter does not cover procurement by Civil Aviation Affairs.

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 (1)
8. Department of Commerce (2)
9. Department of Defense (3)
10. Department of Education
11. Department of Energy (4)
12. Department of Health and Human Services
13. Department of Homeland Security (5)
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 (6)
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 (7)
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
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 (8)
52. United States International Trade Commission

Notes to Schedule of the United States

1. Department of Agriculture: Chapter 9 (Government Procurement) does not cover the procurement of agricultural goods in furtherance of agricultural support programs or human feeding programs.

2. Department of Commerce: Chapter 9 (Government Procurement) does not cover shipbuilding activities of the U.S. National Oceanic and Atmospheric Administration (NOAA).

3. Department of Defense: Chapter 9 (Government Procurement) does not cover the procurement of the goods in the following FSC categories (for complete listing of U.S. Federal Supply Classification, see www.scrantonrtg.com/secrc/fsc-codes/fsc.html):

- | | | |
|-----|--|---|
| (a) | FSC 11
FSC 18
FSC 19

FSC 20

FSC 2310
FSC 2350
FSC 51
FSC 52
FSC 60

FSC 8140

FSC 83

FSC 84

FSC 89 | Nuclear Ordnance
Space Vehicles
Ships, Small Craft, Pontoons, and Floating Docks (the part of this classification defined as naval vessels or major components of the hull or superstructure thereof)
Ship and Marine Equipment (the part of this classification defined as naval vessels or major components of the hull or superstructure thereof)
Passenger Motor Vehicles (only Buses)
Combat, Assault & Tactical Vehicles, Tracked
Hand Tools
Measuring Tools
Fiber Optics Materials, Components, Assemblies, and Accessories
Ammunition & Nuclear Ordnance Boxes, Packages & Special Containers
Textiles, Leather, Furs, Apparel, Shoes, Tents, and Flags (all elements other than pins, needles, sewing kits, flagstaves, flagpoles and flagstaff trucks)
Clothing, Individual Equipment, and Insignia (all elements other than Sub-class 8460 -luggage)
Subsistence (all elements other than sub-class 8975 - tobacco products) |
|-----|--|---|

- (b) "Specialty metals," defined as steels melted in steel manufacturing facilities located in the United States or its possessions, where the maximum alloy content exceeds one or more of the following limits, must be used in products purchased by the Department of Defense: (1) manganese, 1.65 percent; silicon, 0.60 percent; or copper, 0.60 percent; or which contains more than 0.25 percent of any of the following elements: aluminum, chromium, cobalt, columbium, molybdenum, nickel, titanium, tungsten, or vanadium; (2) metal alloys consisting of nickel, iron-nickel, and cobalt base alloys containing a total of other alloying metals (except iron) in excess of

10 percent; (3) titanium and titanium alloys; or (4) zirconium base alloys; and

- (c) Chapter 9 (Government Procurement) generally does not cover the procurement of the goods in the following FSC categories, due to application of Article 20.2 (Essential Security):

FSC 10	Weapons
FSC 12	Fire Control Equipment
FSC 13	Ammunitions and Explosives
FSC 14	Guided Missiles
FSC 15	Aircraft and Airframe Structural Components
FSC 16	Aircraft Components and Accessories
FSC 17	Aircraft Launching, Landing, and Ground Handling Equipment
FSC 19	Ships, Small Craft, Pontoons, and Floating Docks
FSC 20	Ship and Marine Equipment
FSC 28	Engines, Turbines, and Components
FSC 31	Bearings
FSC 58	Communications, Detection, and Coherent Radiation
FSC 59	Electrical and Electronic Equipment Components
FSC 95	Metal Bars, Sheets, and Shapes

4. Department of Energy: Chapter 9 (Government Procurement) does not cover national security procurements made in support of safeguarding nuclear materials or technology and entered into under the authority of the Atomic Energy Act, or oil purchases related to the Strategic Petroleum Reserve.

5. Department of Homeland Security:

- (a) Chapter 9 (Government Procurement) does not cover procurement by the Transportation Security Administration.
- (b) The essential security considerations applicable to the Department of Defense are equally applicable to the U.S. Coast Guard.

6. Department of Transportation: Chapter 9 (Government Procurement) does not cover procurement by the Federal Aviation Administration.

7. General Services Administration: Chapter 9 (Government Procurement) does not cover the procurement of the goods in the following FSC categories:

FSC 51	Hand Tools
FSC 52	Measuring Tools
FSC 7340	Cutlery and Flatware

8. United States Agency for International Development: Chapter 9 (Government Procurement) does not cover procurement for the direct purpose of providing foreign assistance.

**ANNEX 9-A-2
OTHER ENTITIES**

Chapter 9 (Government Procurement) applies to procurement by the other covered entities listed in a Party's Schedule to this Annex where the value of the procurement is estimated, in accordance with paragraphs 5 and 6 of Article 9.1 (Scope and Coverage) to equal or exceed:

- (a) for procurement of goods and services:
 - (i) by a List A entity, \$250,000, which shall not be subject to adjustment; or
 - (ii) by a List B entity, \$538,000, subject to adjustment in accordance with paragraph 3 of Annex 9-F (Threshold Adjustment Formula); and
- (b) for procurement of construction services by a List A or a List B entity, \$9,368,478, subject to adjustment in accordance with paragraph 2 of Annex 9-F (Threshold Adjustment Formula).

SCHEDULE OF BAHRAIN

Chapter 9 (Government Procurement) applies to procurement by or on behalf of any entity listed in this Schedule, without regard to the juridical status of the entity. Unless otherwise specified, Chapter 9 (Government Procurement) covers all agencies subordinate to the entities listed in this Schedule.

List A:

1. Bahrain Center for Studies and Research
2. Bahrain Convention & Exhibition Bureau
3. Bahrain International Exhibition Center
4. Bahrain Training Institute
5. Council of Representatives
6. Economic Development Board
7. General Organization for Social Insurance
8. Municipal Councils (including Manama Municipality, Muharraq Municipality, Central area Municipality, Northern area Municipality, and Southern area Municipality)
9. National Audit Court
10. Pension Fund Commission
11. Radio & TV Corporation (1)
12. Shura Council
13. The High Council for Vocational Training (including Specific Councils for Vocational Training in the Banking Sector, the Hotels and Catering Sector, the Construction Sector, the Gold and Jewelry Sector, and the Industry Sector)
14. Telecommunication Regulatory Authority
15. The Constitutional Court
16. University of Bahrain
17. Bahrain Petroleum Co. (BAPCO)

Note to Schedule of Bahrain

1. Radio & TV Corporation: Chapter 9 (Government Procurement) does not cover the acquisition, development, or production of programmed material or the procurement of broadcasting time, as described in CPC 84170. (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>.)

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 (1)

Notes to Schedule of the United States

1. The Rural Utilities Service shall:
 - (a) waive federal buy national requirements imposed as conditions of funding by the Rural Utilities Service 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 in this Schedule.

For greater certainty, Chapter 9 (Government Procurement) 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 Schedule, Chapter 9 (Government Procurement) does not apply to restrictions attached to Federal funds for airport projects.

ANNEX 9-B
GOODS

Chapter 9 (Government Procurement) applies to all goods procured by the entities listed in Annexes 9-A-1 (Central Level of Government Entities) and 9-A-2 (Other Entities), subject to the Notes to the respective Annexes and the General Notes.

ANNEX 9-C SERVICES

Chapter 9 (Government Procurement) applies to all services procured by the entities listed in Annexes 9-A-1 (Central Level of Government Entities) and 9-A-2 (Other Entities), subject to the Notes to the respective Annexes, the General Notes, and the Schedules and Note to this Annex.

SCHEDULE OF BAHRAIN

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

1. Arbitration and Conciliation Services
2. Financial Intermediation Services, except Investment Banking, Insurance Services, and Pension Services (CPC 711), and Investment banking services (CPC 712)
3. Management of Government-Owned Facilities (Administrative Facilities and Service Buildings, Airfield, Communications, Missile Facilities, Educational Buildings, Hospital Buildings, Industrial Buildings, the Royal Court, the Prime Minister's Court, and the Crown Prince's Court Buildings, Warehouse Buildings, Research and Development Facilities, Other Buildings, Conservation and Development Facilities, Highways, Roads, Streets, Bridges, Dams, Electric Power Generation (EPG) Facilities, Utilities, Other Non-Building Facilities)
4. Printing of revenue stamps, bank notes, and religious material
5. Research and Development
6. Public Utilities
7. Telecommunications and Telecommunications Network Management Services

SCHEDULE OF THE UNITED STATES

Chapter 9 (Government Procurement) does not cover the procurement of the following services, as elaborated in the Common Classification System (for a complete listing of 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
 - 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 Defense, Department of Energy, and the National Aeronautics and Space Administration; and, for all entities:

M180 Research and Development facilities

S. Utilities: All Classes

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

Note to Schedule of the United States

1. Chapter 9 (Government Procurement) does not cover the procurement of any service in support of military forces overseas.

ANNEX 9-D
CONSTRUCTION SERVICES

Chapter 9 (Government Procurement) applies to all construction services procured by the entities listed in Annexes 9-A-1 (Central Level of Government Entities) and 9-A-2 (Other Entities), subject to the Notes to the respective Annexes, the General Notes, and the Schedules and Note to this Annex.

SCHEDULE OF BAHRAIN

1. Chapter 9 (Government Procurement) does not cover the procurement of construction services for buildings intended for religious purposes (CPC 54129).
2. Chapter 9 (Government Procurement) does not apply to the procurement of general construction services of civil engineering works (CPC 542) by a covered entity on behalf of a non-covered entity.

SCHEDULE OF THE UNITED STATES

Chapter 9 (Government Procurement) does not cover the procurement of dredging services.

Note to Schedule of the United States

“Buy national” requirements on articles, supplies, or materials acquired for use in construction services contracts covered by Chapter 9 (Government Procurement) shall not apply to goods of either Party.

ANNEX 9-E
GENERAL NOTES

SCHEDULE OF BAHRAIN

Chapter 9 (Government Procurement) does not apply to procurement by one Bahraini government entity of a good or service obtained or acquired from another Bahraini government entity.

SCHEDULE OF THE UNITED STATES

Chapter 9 (Government Procurement) does not apply to set-asides on behalf of small or minority-owned businesses. Set-asides include any form of preference, such as the exclusive right to provide a good or service and price preferences.

ANNEX 9-F
THRESHOLD ADJUSTMENT FORMULA

1. Where required under Annex 9-A-1 (Central Level of Government Entities) or 9-A-2 (Other Entities), the monetary thresholds shall be adjusted at two-year intervals, with the first adjustment taking effect on January 1, 2006.

2. With regard to the thresholds for all construction services, 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

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

T_1 = new threshold value.

3. The thresholds for goods and services in Annex 9-A-1 (Central Level of Government Entities) and for goods and services procured by List B entities in the U.S. Schedule to Annex 9-A-2 (Other Entities) are conversions into U.S. dollars of the thresholds listed in the U.S. Appendix 1 to the WTO Agreement on Government Procurement, which are set out in Special Drawing Rights (SDRs) and listed below. The United States shall calculate adjustments of these thresholds 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 Annex 9-A-1 entities; and
- (b) 400,000 SDRs for goods and services for Annex 9-A-2, List B entities.

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

5. Bahrain shall:

- (a) convert the adjusted thresholds values notified by the United States under paragraph 4 into the Bahraini Dinar based on the official conversion rate of the Bahrain Monetary Agency, using the average of the daily values of the Bahraini Dinar in terms of the U.S. dollar over the two-year period ending September 30 of the year in which the United States notifies the adjusted thresholds; and
- (b) promptly notify the United States of the value in Bahraini Dinar of the adjusted thresholds.

6. The Parties shall consult if a major change in a Party’s currency vis-à-vis the other Party’s currency creates a significant problem with regard to the application of this Chapter.