



AusTradeUS Pty. Ltd.

Australia's entry point to the U.S government market

VIA ELECTRONIC MAIL

April 16, 2004

Secretary
Senate Select Committee on the Free Trade Agreement
between Australia and the United States of America
Suite S1.30.1
The Senate
Parliament House
Canberra ACT 2600
AUSTRALIA

Re: Australia – United States Free Trade Agreement

Senators:

It is a privilege and a pleasure to provide you with this submission regarding the Australia – United States Free Trade Agreement (“FTA”). The scope of this submission is confined to the US government procurement market and the access won for Australian companies to this important market under the terms of Chapter 15 of the FTA.

I am the Managing Director of AusTradeUS Pty Ltd, a newly formed, and wholly Australian-owned company. The mission of AusTradeUS is assist Australian companies in selling their products and services into the US government market. I hold both Australian and US citizenship and am a resident of New South Wales. I am also an attorney and am admitted to practice in both Washington, DC and New South Wales. I recently established residence in New South Wales after practicing US government contract law in Washington DC for seventeen years.

During the negotiation of the FTA I provided my comments and thoughts on the US government procurement market to members of the Department of Foreign Affairs and Trade's Office of Trade Negotiations. It is without reservation that I commend them for their tenacity and determination in securing access for Australian companies to this important market.

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The US government procurement market is the largest consumer in the largest market in the world. With an annual procurement budget of in excess of \$200 billion US it represents the single largest potential consumer of Australian goods and services as a result of the FTA. This single element of the FTA, in and of itself, is likely to represent the most important export opportunity for Australia companies for decades. Regrettably, the right for Australian companies to compete in this the largest sector of the US market under the FTA has received less than the attention it deserves despite the potential it represents.

The FTA secures for Australia “designated country” status under the Buy American Act and with it the elimination of the current 6% price penalty applied to tender proposals submitted by Australian companies. The FTA also provides that certain Australian products will be accorded duty-free entry when purchased by US government procurement authorities. The current application of the 6% price penalty plus duty to the prices of Australian products in the context of price-based tender evaluations effectively precludes them from consideration in most US government procurements.

There are 61 countries that have “designated country” status that enjoy the benefit of not having the Buy American Act’s 6% price penalty imposed upon their tender pricing. As expected, countries like Canada and the UK enjoy “designated country” status, but countries like Japan, Italy and Switzerland also have “designated country” status. Clearly none of these latter countries have been the staunch ally to the US that Australia has in the past, but nonetheless their status as “designated countries” affords them a competitive evaluation preference over Australia companies in this important market sector. Without the FTA, Australian companies will continue to be precluded from this vast market for all but certain defence procurements conducted under the 1995 Memorandum of Agreement on Reciprocal Defence Procurement.

The FTA also secures for Australian companies the right to be awarded US General Services Administration (“GSA”) Federal Supply Schedule contracts (“GSA Schedule contract”). Securing this right under the FTA is a significant accomplishment the potential beneficial results of which have also been wholly overlooked in Australian media. These coveted contracts which accounted for \$25 billion in US government procurement dollars annually are awarded by GSA on behalf of the US Government. Once awarded any US agency or department can place orders for the products listed on these contracts. There are no dollar limits on the size of orders with only limited competitive tendering for individual orders.

These contracts represent Australia’s best entry point into the US government market. They are also the reason why I formed AusTradeUS Pty Ltd as we will list the best of Australian product innovations on these contracts so that they can be purchased by any department or agency within the US government. The results of our endeavour could potentially mean dramatically increased export

revenues for Australian companies and with it, the creation of jobs for many Australian workers.

I invite members of the Committee to visit the AusTradeUS Pty Ltd website www.austradeus.com to learn more about this important aspect of the FTA and what it will mean to Australian companies. Should members of the Committee wish to access our website Resource Centre please use the following: User name: guest632, password: bcn632. I direct the Committee's attention to the PowerPoint presentations in the Resource Centre as they contain my presentations at the recent APEC / AUSTA and Australian Services Roundtable conferences on the US government procurement aspects of the FTA. These presentations contain valuable statistical information relative to the US government procurement market, a description of the US government tender process, and a discussion of Australia's best entry points into the market.

As a steadfast ally of the US, Australia, its businesses, and its people deserve to have unfettered access to this most important element of the American market. The FTA will ensure that Australian companies competing in the US government market enjoy treatment as favourable as the 61 countries that have already secured "designated country" status.

Thank you for your consideration of this submission. I would be pleased to provide any additional information or assistance the Committee may require.

Respectfully submitted,

[original signed]

Robert G. Bugge, Juris Doctor
Managing Director