

Reporting Requirements for Submitting a Response with an Offer to Supply

Submissions for Participation in a US-PERU TPA Commercial Availability Proceeding

(a) *Filing a Submission.* All submissions in a US-PERU TPA commercial availability proceeding (e.g., Request, Response, Rebuttal, and Request to Remove or Restrict) must be in English. If any attachments are in a language other than English, then a complete translation must be provided. Each submission must be submitted to the Chairman of CITA, in care of the U.S. Department of Commerce's Office of Textiles and Apparel ("OTEXA") in two forms: electronic mail and an original signed submission.

(1) An electronic mail ("email") version of the submission must be either in PDF, Word, or Word-Perfect format and must contain an adequate public summary of any business confidential information and the due diligence certification, sent to OTEXA-Peru@trade.gov. The email version of the submission will be posted for public review on the US-PERU TPA commercial availability website. No business proprietary information should be submitted in the email version of any document.

(2) The original signed submission must be received via express courier to -- Chairman, Committee for the Implementation of Textile Agreements, Room 30003, U.S. Department of Commerce, 14th and Constitution Ave., N.W., Washington, DC 20230. Any business confidential information upon which an interested entity wishes to rely must be included in the original signed submission only. Except for the inclusion of business confidential information and corresponding public summary, the two versions of a submission should be identical.

(3) Brackets must be placed around all business confidential information contained in submissions. Documents containing business confidential information must have a bolded heading stating "Confidential Version." Attachments considered business confidential information must have a heading stating "Business Confidential Information." Documents, including those submitted via email, provided for public release, must have a bolded heading stating "Public Version" and all the business confidential information must be deleted and substituted with an adequate public summary.

(4) Generally, details such as quantities and lead times for providing the subject product can be treated as business confidential information. However, the names of US-PERU TPA suppliers who were contacted, what was asked generally about the capability to manufacture the subject product, and the responses thereto should be included in public versions, which will be made available to the public.

(b) *Due Diligence Certification.* An interested entity must file a certification of due diligence as described in subsection (b)(1) with each submission, both email and original signed versions, containing factual information. If the interested entity has legal counsel or other representative, the legal counsel or other representative must also file a certification of due diligence as

described in subsection (b)(2) with each submission, both email and original signed versions, containing factual information. Accurate representations of material facts submitted to CITA for the US-PERU TPA commercial availability proceeding are vital to the integrity of this process and are necessary for CITA's effective administration of the statutory scheme. Each submission containing factual information for CITA's consideration must be accompanied by the appropriate certification regarding the accuracy of the factual information. Any submission that lacks the applicable certifications will be considered an incomplete submission that CITA will reject and return to the submitter. CITA may verify any factual information submitted by interested entities in a US-PERU TPA commercial availability proceeding.

(1) For the person responsible for presentation of the factual information: I, (name and title), currently employed by (interested entity), certify that (1) I have read the attached submission, and (2) the information contained in this submission is, to the best of my knowledge, complete and accurate.

(2) For the person's legal counsel or other representative: I, (name), of (law or other firm), counsel or representative to (interested entity), certify that (1) I have read the attached submission, and (2) based on the information made available to me by (person), I have no reason to believe that this submission contains any material misrepresentation or omission of fact.

(c) *Official Receipt.* A submission will be considered officially submitted to CITA only when both the email version and the original signed submission have been received by CITA. For Requests, CITA will confirm to the requestor that both versions of the Request were received through an email confirmation. CITA's email confirmation shall be considered the "official receipt" of the Request, and also begins the statutory 30 U.S. business-day process for CITA consideration of Requests. CITA will confirm official receipt of any Response and Rebuttal by posting the submissions on the US-PERU TPA commercial availability website.

Submitting a Response with an Offer to Supply

Responses must meet the requirements outlined in Section 3 of these Procedures. General comments in support of or opposition to a Request do not meet the requirements of a Response. A Due Diligence Certification must accompany a Response.

(a) *Response with an Offer to Supply Submission.* An interested entity (a US-PERU TPA supplier) may file a Response to a Request CITA accepted advising CITA of its objection to the Request and its ability to supply the subject product by providing an offer to supply the subject product as described in the Request. An interested entity will have 10 U.S. business days after official receipt of a Request to respond to a Request. If good cause is shown, CITA may extend this deadline, but CITA will still meet the statutory deadline for making a determination.

(b) *Contents of a Response with an Offer to Supply.*

- (1) File Number. The Response must reference the CITA File Number assigned to the particular Request being addressed.
- (2) Quantity. The Response must supply the quantity of the subject product that the respondent is capable of currently supplying, in standard units of quantity. All measurements must be in metric units. If the English count system is used in any part, then a conversion to metric units must be provided.
- (3) Production Capability/Demonstration of Ability to Supply. A Response must contain information supporting the claim to supply the subject product, or one substitutable, in commercial quantities in a timely manner.
 - (i) The Response must report the quantity, in metric units, that the US-PERU TPA supplier produced of the subject product, or a substitutable product, in the preceding 24-month period.
 - (ii) For products that have experienced cyclical demand or are not currently produced, the US-PERU TPA supplier must indicate the quantity that has been supplied or offered commercially in the past, with an explanation of the reasons it is not currently produced or offered.
 - (iii) If the subject product involves a new style, weight, or other variation that is new to the market or new to the US-PERU TPA supplier, then the supplier must provide detailed information on its current ability to make the subject product in commercial quantities in a timely manner. Such information could include current production capacity, current loom availability, and standard timetables to produce.
 - (iv) A US-PERU TPA supplier may support its claim to be able to produce the subject product through provision of a sample meeting exactly the specifications as presented in the Request. However, the provision of a sample is not required. Regardless of whether a sample is provided, a respondent must demonstrate its ability to produce the subject product by providing sufficient relevant information regarding their production capability. Such information could include past production of similar products and/or descriptions of equipment and identification of suppliers necessary to produce the subject product. If some operations, such as finishing, will be completed by other entities, the name of the facility and contact information must be provided.
 - (v) The Response may provide, if relevant, the basis for the US-PERU TPA supplier's rationale that other products that are

supplied by the US-PERU TPA supplier in commercial quantities in a timely manner are substitutable for the subject product(s) for purposes of the intended use, supported by measurable criteria.

- (vi) In its review of a Response, CITA will consider whether the US-PERU TPA supplier was responsive to the efforts employed by the requestor to obtain the subject product in the course of due diligence. In the event that a US-PERU TPA supplier was not responsive, a US-PERU TPA supplier must provide a reasonable explanation in its Response as to why it did not respond to earlier inquiries by the requestor in the course of due diligence. CITA will reject a Response if it does not include such explanation.

- (4) Due Diligence. The Response must provide a complete description of the due diligence undertaken by the US-PERU TPA supplier to substantiate the ability to supply the subject product. If a US-PERU TPA supplier has participated in the requestor's undertaking of due diligence, the supplier must provide certain information in response to the requestor's inquiries.

- (i) If a US-PERU TPA supplier has been responsive to a requestor in the undertaking of due diligence, the US-PERU TPA supplier must have stated its ability to supply or not supply the subject product. If the product can be supplied, the response to the inquiry must contain information supporting the US-PERU TPA supplier's claim to supply the subject product, or one substitutable, in commercial quantities in a timely manner.
- (ii) If a US-PERU TPA supplier offers to supply the subject product, the supplier may support its offer by reporting the quantity, in metric units, that it has produced of the subject product, or a substitutable product, in the preceding 24-month period. If the US-PERU TPA supplier does not provide such information, it must, subject to section 6(b)(4)(vii), explain why the information it has provided sufficiently supports its offer to supply.
- (iii) In response to a requestor's inquiry, for products that have experienced cyclical demand or are not currently produced, the US-PERU TPA supplier must provide the requestor the quantity that has been supplied or offered commercially in the past, with an explanation of the reasons it is not currently produced or offered.
- (iv) If the subject product involves a new style, weight, or other variation that is new to the market or new to the US-PERU TPA supplier, then the supplier must provide detailed information on its current ability to make the subject product in commercial

quantities in a timely manner. Such information could include current production capacity, current loom availability, and standard timetables to produce the subject product.

- (v) A US-PERU TPA supplier may support its claim to be able to produce the subject product through provision of a sample meeting the specifications as presented in an inquiry. However, the provision of a sample is not required. Regardless of whether a sample is provided, the US-PERU TPA supplier must demonstrate its ability to produce the subject product by providing sufficient relevant information regarding their production capability. Such information could include past production of similar products and/or descriptions of equipment and identification of suppliers necessary to produce the subject product. If some operations, such as finishing, will be completed by other entities, the name of the facility and contact information must be provided.
 - (vi) A response to a requestor's inquiry must provide, as applicable, the basis for the US-PERU TPA supplier's rationale that other products that are supplied by the US-PERU TPA supplier in commercial quantities in a timely manner are substitutable for the subject product for purposes of the intended use, supported by measurable criteria.
 - (vii) Nothing in these procedures shall require any US-PERU TPA supplier to provide business confidential or other commercially sensitive information to a requestor. However, a US-PERU TPA supplier must provide the requestor a reasonable explanation why such information was not provided and why the information it has provided sufficiently supports its offer to supply.
- (5) Location of the US-PERU TPA supplier. The Response must provide the name, address, phone number, and email address of a contact person at the facility claimed to be able to supply the subject product.