



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Procurement

DECISION AND REASONS

File No. PR-2014-023

4Plan Consulting Corp.

*Decision made
Friday, August 15, 2014*

*Decision issued
Monday, August 25, 2014*

*Reasons issued
Tuesday, September 2, 2014*

IN THE MATTER OF a complaint filed pursuant to subsection 30.11(1) of the *Canadian International Trade Tribunal Act*, R.S.C., 1985, c. 47 (4th Supp.).

BY

4PLAN CONSULTING CORP.

AGAINST

SHARED SERVICES CANADA

DECISION

Pursuant to subsection 30.13(1) of the *Canadian International Trade Tribunal Act*, the Canadian International Trade Tribunal has decided not to conduct an inquiry into the complaint.

Jason W. Downey

Jason W. Downey

Presiding Member

The statement of reasons will be issued at a later date.

STATEMENT OF REASONS

1. Subsection 30.11(1) of the *Canadian International Trade Tribunal Act*¹ provides that, subject to the *Canadian International Trade Tribunal Procurement Inquiry Regulations*,² a potential supplier may file a complaint with the Canadian International Trade Tribunal (the Tribunal) concerning any aspect of the procurement process that relates to a designated contract and request the Tribunal to conduct an inquiry into the complaint. Subsection 30.13(1) of the *CITT Act* provides that, subject to the *Regulations*, after the Tribunal determines that a complaint complies with subsection 30.11(2) of the *CITT Act*, it shall decide whether to conduct an inquiry into the complaint.

COMPLAINT

2. The complaint relates to a Request for Proposal (RFP) for professional consulting services (Solicitation No. 2B0KB-14-18583) by Shared Services Canada (SSC).

3. 4Plan Consulting Corp. (4Plan) alleged that its bid was not properly evaluated and that information in its bid was ignored and not taken into account by the evaluators.

4. As a remedy, 4Plan requested that the resulting contract be cancelled and that the designated contract be awarded to 4Plan. In the alternative, 4Plan requested compensation for lost profits, lost opportunity and the costs of preparing its bid.

PROCUREMENT PROCESS

5. On May 29, 2014, the RFP was issued by SSC. The bid closing date was initially June 19, 2014, but was subsequently extended to June 26, 2014.

6. On June 26, 2014, 4Plan submitted its proposal in response to the RFP.

7. On July 30, 2014, SSC e-mailed 4Plan to inform it that 4Plan was not the successful bidder and that the resulting contract had been awarded to another bidder.

8. On August 4, 2014, 4Plan wrote to SSC and contended that several project descriptions included in 4Plan's bid in response to the mandatory criteria of the RFP were not taken into account and that the evaluators improperly ignored detailed project descriptions.

9. On August 5, 2014, SSC e-mailed 4Plan to acknowledge receipt of 4Plan's objections and stated that SSC would provide a response to 4Plan once the evaluators were available.

10. On August 5, 2014, 4Plan wrote to SSC to expand on several issues that were the subject of its objection and to provide additional information to SSC.

11. On August 8, 2014, SSC e-mailed 4Plan and stated that it would schedule a debriefing with 4Plan once the evaluators were available.

12. On August 13, 2014, 4Plan submitted its complaint to the Tribunal.

1. R.S.C., 1985, c. 47 (4th Supp.) [*CITT Act*].

2. S.O.R./93-602 [*Regulations*].

ANALYSIS

13. Subsection 6(2) of the *Regulations* provides that a potential supplier that has made an objection to the relevant government institution, and is denied relief by that government institution, may file a complaint with the Tribunal “. . . within 10 working days after the day on which the potential supplier has actual or constructive knowledge of the denial of relief, if the objection was made within 10 working days after the day on which its basis became known or reasonably should have become known to the potential supplier.”

14. The Tribunal notes that 4Plan’s objection to SSC of August 4, 2014, was made within 10 days of 4Plan having discovered the ground of its complaint. However, the SSC responses state that it intends to schedule a debriefing with 4Plan pending the availability of the evaluators, who appear to be on vacation. Thus, it is clear that 4Plan has not yet received a formal denial of relief with respect to its alleged ground of complaint, as set out in subsection 6(2) of the *Regulations*.

15. As a result of the foregoing, the Tribunal finds that the complaint is premature.

16. The Tribunal’s decision does not preclude 4Plan from filing a new complaint within 10 working days of receiving a denial of relief from SSC. Alternatively, if SSC fails to give a response to 4Plan’s objections within a reasonable time, 4Plan may file another complaint with the Tribunal. In either event, upon filing a new complaint, 4Plan may request that the documentation already filed with the Tribunal be joined to the new complaint.

DECISION

17. Pursuant to subsection 30.13(1) of the *CITT Act*, the Tribunal has decided not to conduct an inquiry into the complaint.

Jason W. Downey
Jason W. Downey
Presiding Member