



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Procurement

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## DECISION AND REASONS

File No. PR-2014-069

Accelerated Technology  
Laboratories, Inc.

*Decision made  
Wednesday, April 1, 2015*

*Decision and reasons issued  
Thursday, April 2, 2015*

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**

**ACCELERATED TECHNOLOGY LABORATORIES, INC.**

**AGAINST**

**THE DEPARTMENT OF PUBLIC WORKS AND GOVERNMENT SERVICES**

**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. Since Accelerated Technology Laboratories, Inc. has not yet received a response to its objection to the Department of Public Works and Government Services, the complaint is premature.

Peter Burn  
Peter Burn  
Presiding Member

## STATEMENT OF REASONS

1. Subsection 30.11(1) of the *Canadian International Trade Tribunal Act*<sup>1</sup> provides that, subject to the *Canadian International Trade Tribunal Procurement Inquiry Regulations*,<sup>2</sup> 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.
2. The complaint relates to a Request for Proposal (RFP) (Solicitation No. 87055-130366/A) issued by the Department of Public Works and Government Services (PWGSC), on behalf of the Canadian Nuclear Safety Commission, for the supply of goods and services for the implementation of a commercial off-the-shelf laboratory information management system.
3. The solicitation was issued by PWGSC on July 15, 2014. Accelerated Technology Laboratories, Inc. (ATL) submitted a bid to PWGSC on September 5, 2014, prior to the bid closing date on September 12, 2014.
4. ATL alleged that, on November 5, 2014, it was informed by a contract security officer at PWGSC that it had been awarded the contract. Months later, ATL received a notification letter from the contracting authority at PWGSC dated March 23, 2015, stating that ATL's bid was non-compliant with several of the mandatory criteria of the RFP, that its bid was therefore disqualified and that the contract had been awarded to another bidder, LabWare Inc.
5. On March 23, 2015, ATL wrote to the contracting authority at PWGSC requesting a call to discuss the notification letter of the same date. On March 24, 2015, ATL wrote to the contract security officer at PWGSC requesting clarification, in light of the conflicting information that was provided regarding the award of contract.
6. The contracting authority agreed to a debriefing with ATL, which is still pending according to the information filed with the complaint.
7. On March 26, 2015, ATL filed its complaint with the Tribunal.
8. 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.”
9. The Tribunal notes that ATL's objection to PWGSC on March 24, 2015, was made within 10 working days of ATL having discovered the ground of its complaint. However, PWGSC's response indicates that the contracting authority intends to discuss the matter with ATL at a debriefing. Thus, it is clear that ATL 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*.

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

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

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

11. The Tribunal's decision does not preclude ATL from filing a new complaint within 10 working days of receiving a denial of relief from PWGSC. Alternatively, if PWGSC fails to respond to ATL's objection within a reasonable time, ATL may file another complaint with the Tribunal. In either event, upon filing a new complaint, ATL may request that the documentation already filed with the Tribunal be joined to the new complaint.

## **DECISION**

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

Peter Burn  
Peter Burn  
Presiding Member