



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Procurement

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## DETERMINATION AND REASONS

File No. PR-2015-030

Iron Mountain Information  
Management Services Canada,  
Inc.

v.

Department of Public Works and  
Government Services

*Determination and reasons issued  
Wednesday, February 17, 2016*

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IN THE MATTER OF a complaint filed by Iron Mountain Information Management Services Canada, Inc. pursuant to subsection 30.11(1) of the *Canadian International Trade Tribunal Act*, R.S.C., 1985, c. 47 (4th Supp.);

AND FURTHER TO a decision to conduct an inquiry into the complaint pursuant to subsection 30.13(1) of the *Canadian International Trade Tribunal Act*.

**BETWEEN**

**IRON MOUNTAIN INFORMATION MANAGEMENT SERVICES  
CANADA, INC.**

**Complainant**

**AND**

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

**Government  
Institution**

**DETERMINATION**

Pursuant to subsection 30.14(2) of the *Canadian International Trade Tribunal Act*, the Canadian International Trade Tribunal determines that the complaint is not valid.

Pursuant to section 30.16 of the *Canadian International Trade Tribunal Act*, the Canadian International Trade Tribunal awards the Department of Public Works and Government Services its reasonable costs incurred in responding to the complaint, which costs are to be paid by Iron Mountain Information Management Services Canada, Inc. In accordance with the *Procurement Costs Guideline*, the Canadian International Trade Tribunal's preliminary indication of the level of complexity for this complaint case is Level 1, and its preliminary indication of the amount of the cost award is \$1,150. If any party disagrees with the preliminary indication of the level of complexity or the preliminary indication of the amount of the cost award, it may make submissions to the Canadian International Trade Tribunal, as contemplated by article 4.2 of the *Procurement Costs Guideline*. The Canadian International Trade Tribunal reserves jurisdiction to establish the final amount of the award.

Serge Fréchette  
Serge Fréchette  
Presiding Member

Tribunal Member: Serge Fréchette, Presiding Member

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## STATEMENT OF REASONS

1. On October 7, 2015, Iron Mountain Information Management Services Canada, Inc. (Iron Mountain) filed a complaint with the Canadian International Trade Tribunal (the Tribunal) pursuant to subsection 30.11(1) of the *Canadian International Trade Tribunal Act*<sup>1</sup> concerning a Request for Proposal (RFP) (Solicitation No. EN929-142184/C) by the Department of Public Works and Government Services (PWGSC) for the provision of document imaging services for the Accounting, Banking and Compensation Branch of PWGSC.

### BACKGROUND

2. PWGSC issued the RFP on March 5, 2015. The RFP provided that PWGSC would award an estimated number of contracts in each of the following defined series: Series 1—Unclassified; Series 2—Protected B; and Series 3—Secret.

3. The RFP consisted of a two-stage bid evaluation process. In the first stage, a bidder was to indicate for which contract series it was submitting a proposal. Qualified bidders would then be awarded “establishing contracts” under every contract series for which their proposals were successful. Under the second stage, only those awarded an “establishing contract” could participate in task authorization bid solicitations for contracts to be awarded in their respective contract series.

4. Over the course of the solicitation period, PWGSC issued 17 amendments to the RFP in response to questions from potential bidders. Only one of the amendments is relevant to the matters at issue. Specifically, on April 14, 2015, PWGSC issued amendment No. 17 to the RFP, on the basis of a question which related to mandatory criterion M3 (M3). The question and answer are as follows:

#### Question #35

Mandatory Requirement M3 states that “The bidder must either demonstrate compliance with the following standards by providing a written Statement of Compliance from a qualified independent third party at arm’s length, or provide a statement that the Bidder will obtain a Statement of Compliance from an independent third party at arm’s length within six (6) months) of contract award.

- CAN/CGSB 72.34-2005-Electronic Records as Documentary Evidence
- CAN/CGSB 72.11.93-Microfilm and Electronic Image as Documentary Evidence

We contacted the Canadian General Standards Board (CGSB) to determine the process of obtaining a Statement of Compliance from a qualified independent third party with respect to the two standards. Staff at the CGSB indicated that to their best knowledge there is no process to provide accreditation with respect to assessing compliance with either standard and thus there would be no independent third parties that would be qualified to provide a written Statement of Compliance with the standards. We request that Mandatory Requirement M3 be removed from Technical Evaluation.

#### Answer #35

Independent verification of compliance of processes against CGSB standards to obtain a statement of compliance can be obtained using the services of vendors who provide audit and assurance services.<sup>2</sup>

5. The solicitation period ended on April 16, 2015.

6. On April 22, 2015, PWGSC asked Iron Mountain to confirm where a statement of compliance or a statement of intention to obtain a statement of compliance<sup>3</sup> could be found in the bid package.<sup>4</sup> Iron Mountain responded the same day and provided its Service Organization Control 3 (SOC3) report. It confirmed that it would not be providing a Service Organization Control 2 (SOC2) report until Canada signed a non-disclosure agreement (NDA).

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

2. Exhibit PR-2015-030-09, Exhibit 2, Vol. 1B.

3. In either case, this was or would be a statement made by an independent arm’s length third party regarding compliance with certain CGSB standards.

4. Exhibit PR-2015-030-09, Exhibit 3, Vol. 1B.

7. On August 6, 2015, PWGSC advised Iron Mountain that its bid was found to be non-responsive to M3 for all three series. It also informed Iron Mountain which bidders had been awarded contracts.<sup>5</sup>

8. On August 19, 2015, PWGSC received a notice of objection from Iron Mountain. PWGSC responded by letter dated September 24, 2015. PWGSC maintained its initial position.

9. On October 7, 2015 Iron Mountain filed its complaint with the Tribunal.

10. On October 13, 2015, the Tribunal informed the parties that the complaint had been accepted for inquiry, as it met the requirements of subsection 30.11(2) of the *CITT Act* and the conditions set out in subsection 7(1) of the *Canadian International Trade Tribunal Procurement Inquiry Regulations*.<sup>6</sup>

## PROCEDURAL HISTORY

11. Le Groupe Conseil Bronson Consulting Inc. (Bronson), one of the successful bidders, requested intervenor status on October 29, 2015. The Tribunal granted the request on November 6, 2015.

12. On November 11, 2015, Iron Mountain requested the production of documents by PWGSC, namely, the portion of proposals submitted by other bidders related to M3, evaluators' notes regarding the evaluation of M3, and any notes or minutes of meetings held between members of the evaluation team addressing Iron Mountain's response to M3. On November 17, 2015, PWGSC filed its comments on Iron Mountain's request for the production of documents. On November 18, 2015, the Tribunal granted Iron Mountain's request regarding the production of documents by PWGSC and allowed PWGSC and Bronson to make submissions on the new documents. The Tribunal also granted Iron Mountain an extension of time to file its comments on the GIR.<sup>7</sup>

13. On December 7, 2015, PWGSC responded to Iron Mountain's comments on the GIR, as it alleged that Iron Mountain had raised new arguments. The Tribunal allowed the response and allowed Iron Mountain to file comments in reply, which it did on December 16, 2015.

14. On December 23, 2015, the Tribunal directed Iron Mountain to produce the SOC2 report to which it referred in its complaint. Iron Mountain produced the SOC2 report on December 29, 2015.

15. Given that there was sufficient information on the record to determine the validity of the complaint, the Tribunal decided that an oral hearing was not required and disposed of the complaint on the basis of the written information on the record.

## RELEVANT PROVISIONS OF THE RFP

16. The RFP, in the introduction to the technical bid portion, provides as follows:

1. The following elements of the Technical Bid will be evaluated and scored in accordance with specific evaluation criteria. *It is imperative that these criteria be addressed in sufficient depth to allow for a complete assessment of capacity and capabilities.*
2. Each Technical Bid will be evaluated solely on its content and as it relates to the Statement of Work. Bids should be clear and concise, following the order and numbering of the Statement of Work. The Bidders must clearly state and demonstrate in their bid if they are responsive or non-responsive with each mandatory requirement.

[Emphasis added]

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5. *Ibid.*, Exhibit 7.

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

7. The Tribunal is of the view that the additional documents did not advance Iron Mountain's case.

17. The dispute relates to one mandatory criterion of the RFP, M3 in Table 1 in Attachment 1 to Part 4 of the RFP, which provides as follows:

SOW Section Number	Section Name/ Evaluation Subject	Points Available	Submission Requirements	Compliant = Yes Non- Compliant = No	Evaluation Criteria
A	B	C	D	E	F
...					
	CGSB Compliance	<b>M3</b>	The bidder must either demonstrate compliance with the following standards by providing a written Statement of Compliance from a qualified independent third party at arm’s length, or provide a statement that the Bidder will obtain a Statement of Compliance from an independent third party at arm’s length within six (6) months of contract award.: <ul style="list-style-type: none"> <li>• CAN/CGSB 72.34-2005- Electronic Records as Documentary Evidence</li> <li>• CAN/CGSB 72.11.93- Microfilm and Electronic Image as Documentary Evidence.</li> </ul>	Yes No	The response must state the Bidder’s [compliance] with a Yes or No in column “E” and in column “F” provide either the current Statement of Compliance from a qualified independent third party at arm’s length or a statement that the Bidder intends to obtain a Statement of Compliance from an independent third party at arm’s length within six (6) months of contract award.

18. The Tribunal summarizes Iron Mountain's response to M3 as follows:
- Iron Mountain indicated "Yes" in column E;
  - it stated, in column F, that it "Can provide SOC 2 report once NDA signed by Canada. See SOC 3 report in Appendix, which starts on page 43"<sup>8</sup>;
  - the SOC3 report was missing from the bid;
  - the SOC2 report was also not provided by Iron Mountain as part of its bid response; and
  - no commitment was made to obtain the required certification in the future.

## POSITIONS OF PARTIES

19. Iron Mountain argued that PWGSC's evaluation of its bid as non-responsive was improper, as it introduced undisclosed evaluation criteria. Additionally, Iron Mountain argued that its bid was not conditional, although its proposal required that PWGSC execute an NDA before it provided a document referenced therein. Iron Mountain submitted that its request for an NDA could not have made its proposal a conditional bid, as it was not something that it could enforce without PWGSC's consent. Iron Mountain stated that it would still have provided the SOC2 report to comply with M3 even if PWGSC had refused to sign the NDA.

20. PWGSC's position is that Iron Mountain's bid was non-compliant, as it did not respond to column "F" and thus was non-responsive to M3. Additionally, PWGSC argued that Iron Mountain's bid was improperly conditional on the execution of an NDA by PWGSC, which was not contemplated by the RFP. PWGSC submitted that the language used by Iron Mountain did not amount to a request, but rather was a condition of providing the SOC2 report, which rendered Iron Mountain's bid non-compliant.

## ANALYSIS

21. The matter at issue is whether the evaluation in this procurement was unreasonable. To find the complaint to be valid, the Tribunal must find that the evaluators acted unreasonably and, therefore, that the procurement was conducted in a manner contrary to Article 506(6) of the *Agreement on Internal Trade*,<sup>9</sup> Article 1015(4) of the *North American Free Trade Agreement*<sup>10</sup> and the similar provisions of the other trade agreements.

## Introduction

22. Subsection 30.14(1) of the *CITT Act* requires that, in conducting an inquiry, the Tribunal limit its considerations to the subject matter of the complaint. At the conclusion of the inquiry, the Tribunal must determine whether the complaint is valid on the basis of whether the procedures and other requirements prescribed in respect of the designated contract have been observed. Section 11 of the *Regulations* provides

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8. Exhibit PR-2015-030-09 at para. 4, Vol. 1B.

9. 18 July 1994, C. Gaz. 1995.I.1323, online: Internal Trade Secretariat <<http://www.ait-aci.ca/agreement-on-internal-trade/>> [AIT].

10. *North American Free Trade Agreement between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America*, 17 December 1992, 1994 Can. T.S. No. 2, online: Department of Foreign Affairs, Trade and Development <<http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/nafta-alena/text-texte/toc-tdm.aspx?lang=eng>> (entered into force 1 January 1994) [NAFTA].



that the Tribunal is required to determine whether the procurement was conducted in accordance with the applicable trade agreements, which, in this case, are *NAFTA*, the *AIT*, the *Agreement on Government Procurement*,<sup>11</sup> the *Canada-Chile Free Trade Agreement*,<sup>12</sup> the *Canada-Peru Free Trade Agreement*,<sup>13</sup> the *Canada-Colombia Free Trade Agreement*,<sup>14</sup> the *Canada-Panama Free Trade Agreement*,<sup>15</sup> the *Canada-Honduras Free Trade Agreement*<sup>16</sup> and the *Canada-Korea Free Trade Agreement*.<sup>17</sup>

23. As set out above, this complaint is about bid evaluation and whether the evaluators applied the appropriate evaluation criteria.

24. When considering the validity of a complaint regarding bid evaluations, the Tribunal has consistently held the following:

30. . . . the Tribunal employs the standard of reasonableness. To that end, the Tribunal has accorded a large measure of deference to evaluators in their evaluation of proposals. *It has stated that a government entity's determination will be considered reasonable if it is supported by a tenable explanation, regardless of whether the Tribunal itself finds that explanation compelling.*

31. Conversely, the Tribunal has been clear that it will find an evaluation to be unreasonable and will substitute its judgment for that of the evaluators when the evaluators have not applied themselves in evaluating a bidder's proposal, have ignored vital information provided in a bid, have wrongly interpreted the scope of a requirement, have based their evaluation on undisclosed criteria or have otherwise not conducted the evaluation in a procedurally fair way.<sup>18</sup>

[Emphasis added, footnotes omitted]

25. Regarding the evaluation criteria for proposals, Article 1013 of *NAFTA* and subsection 506(6) of the *AIT* provide as follows:

[1013] 1. Where an entity provides tender documentation to suppliers, the documentation shall contain all information necessary to permit suppliers to submit responsive tenders, including

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11. *Revised Agreement on Government Procurement*, online: World Trade Organization <[http://www.wto.org/english/docs\\_e/legal\\_e/rev-gpr-94\\_01\\_e.htm](http://www.wto.org/english/docs_e/legal_e/rev-gpr-94_01_e.htm)> (entered into force 6 April 2014).
  12. *Free Trade Agreement between the Government of Canada and the Government of the Republic of Chile*, 1997 Can. T.S. No. 50, online: Department of Foreign Affairs, Trade and Development <<http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/chile-chili/menu.aspx?lang=en>> (entered into force 5 July 1997). Chapter *Kbis*, entitled "Government Procurement", came into effect on September 5, 2008.
  13. *Free Trade Agreement between Canada and the Republic of Peru*, online: Department of Foreign Affairs, Trade and Development <<http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/peru-perou/peru-toc-perou-tdm.aspx?lang=eng>> (entered into force 1 August 2009).
  14. *Free Trade Agreement between Canada and the Republic of Colombia*, online: Department of Foreign Affairs, Trade and Development <<http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/colombia-colombie/can-colombia-toc-tdm-can-colombie.aspx?lang=eng>> (entered into force 15 August 2011).
  15. *Free Trade Agreement between Canada and the Republic of Panama*, online: Department of Foreign Affairs, Trade and Development <<http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/panama/panama-toc-panama-tdm.aspx>> (entered into force 1 April 2013).
  16. *Free Trade Agreement between Canada and the Republic of Honduras*, online: Department of Foreign Affairs, Trade and Development <<http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/honduras/toc-tdm.aspx>> (entered into force 1 October 2014).
  17. *Free Trade Agreement between Canada and the Republic of Korea*, online: Department of Foreign Affairs, Trade and Development <<http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/korea-coree/toc-tdm.aspx?lang=eng>> (entered into force 1 January 2015).
  18. *CAE Inc. v. Department of Public Works and Government Services* (26 August, 2014), PR-2014-007 (CITT).

information required to be published in the notice referred to in Article 1010(2), except for the information required under Article 1010(2)(h). The documentation shall also include:

...

(h) the criteria for awarding the contract, including any factors other than price that are to be considered in the evaluation of tenders . . . .

[506] 6. . . The tender documents shall clearly identify the requirements of the procurement, the criteria that will be used in the evaluation of bids and the methods of weighting and evaluating the criteria.

26. As concerns the responsibilities of bidders, the Tribunal has consistently held that the responsibility for ensuring that a proposal is compliant with all essential elements of a solicitation ultimately resides with the bidder.<sup>19</sup>

27. In light of the foregoing, the Tribunal must determine whether PWGSC's evaluation was reasonable and, in particular, whether undisclosed or inconsistent criteria were used in evaluating Iron Mountain's bid, given its contents.

### **Application of M3: Current Compliance or Commitment for Future Compliance**

28. According to the terms of the RFP, bidders could meet the requirements of M3 either by (a) providing a current certification, i.e. a statement of compliance or (b) committing to obtain a statement of compliance in the future, i.e. within six months of contract award. In either case, such statement had to certify compliance with the enumerated CGSB standards and had to have been obtained from an independent arm's length third party.

29. According to the structure of the RFP, column E responses were to indicate compliance. As set out above, Iron Mountain completed column E; however, where column F was to indicate how compliance was or would be met, Iron Mountain referred to an existing document<sup>20</sup> but failed to provide it. It did not make any commitment, in column F or elsewhere in its bid, to obtain the required future compliance.

### **No Documents were Provided to Show Current Compliance**

30. The bid did not contain any of the documents relevant to M3, including the SOC2 and SOC3 reports; accordingly, it was not possible for PWGSC to assess whether the required certification existed. As such, this response was non-responsive and was quite properly evaluated as such.

#### SOC3 report was missing from the bid

31. In response to PWGSC's request dated April 22, 2015, that Iron Mountain identify the location of the SOC3 report within its bid,<sup>21</sup> Iron Mountain provided the document and stated as follows:

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19. *Samson & Associates v. Department of Public Works and Government Services* (16 July 2015), PR-2015-002 (CITT) at para. 43; *Valcom Consulting Group Inc. v. Department of Public Works and Government Services* (9 July 2014), PR-2013-044 (CITT) at para. 32.

20. This response presumably attempted to indicate current compliance.

21. Exhibit PR-2015-030-09, Exhibit 3, Vol. 1B. PWGSC's request specifically stated "...be advised that the purpose of this letter is to seek clarification of your proposal and should not be construed as an invitation to change or add to your proposal in any way."

Our indication on page 83 of 186 Item M3, the Iron Mountain response indicates “Yes”. We believe our Service Organization Control (SOC) 2 Report will suffice the requirement of this item and we will release upon a signed NDA as there are detailed items related to our systems and security practices. I have attached our SOC 3 Report which provides an overview of this information.

In addition, should these not fully satisfy Canada, the “Yes” indicates we will gain a Statement of Compliance from an independent third party at arm’s length within six (6) months of contract award.<sup>22</sup>

32. The Tribunal is of the view, as expressed in prior decisions, of the following:

17. . . . while the procuring authority may request clarification of some existing aspect of a bid, after bid closing, it cannot accept any information that is tantamount to a substantive revision or modification of the proposal. For example, information in respect of a mandatory requirement that is submitted during a clarification process that is different from that which appeared in the proposal constitutes a revision that is substantive in nature.<sup>23</sup>

[Footnote omitted]

33. PWGSC could not have accepted the late submission of the SOC3 report (or the equally late commitment to obtain future certification), as these were provided after bid closing and accepting them would have amounted to bid repair.

34. Had PWGSC relied upon the response submitted by Iron Mountain after bid closing, it would have permitted a substantive modification of the original proposal, which would have been unfair to other bidders and would have constituted a violation of the various applicable trade agreements.<sup>24</sup>

35. It should also be noted that the SOC3 report did not make any mention of compliance with the relevant CGSB standards.

SOC2 report was withheld by Iron Mountain

36. As discussed above, the SOC2 report, i.e. the other document relied on to show current compliance, was intentionally not provided in the bid package.

37. Iron Mountain’s position that the provision of the SOC2 report was not conditional defies the plain reading of Iron Mountain’s response in the bid and its subsequent actions. It is undisputed that the evaluators were not provided the SOC2 report for review at the time of their evaluation and that its production was to take place upon the materialization of certain circumstances, i.e. the signing of an NDA by PWGSC. This is nothing less than a condition.

38. In similar circumstances, the Tribunal has held that proposals which include a condition are non-compliant with the RFP.

39. In File No. PR-2003-064,<sup>25</sup> the Tribunal found that the complainant failed to adhere to the requirements of the solicitation to submit delivery dates by indicating that its delivery dates were “. . . contingent upon import/export licenses . . . .”<sup>26</sup>

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22. Exhibit PR-2015-030-09, Exhibit 4. Vol. 1B.

23. *Thales Canada Inc.* (27 July 2012), PR-2012-010 (CITT).

24. *Ibid.*

25. *Winchester Division—Olin Corporation v. Department of Public Works and Government Services* (2 April 2004) (CITT).

26. *Ibid.* at para. 42.

40. In File No. PR-2009-011,<sup>27</sup> the Tribunal determined that a disclaimer clause included in the complainant's proposal rendered the proposal non-compliant. In that case, the RFP contained a clause expressly prohibiting modification of clauses in the RFP and stating that any bid that contained terms and conditions would be considered non-responsive. Nevertheless, the Tribunal held that the disclaimer clause in the proposal was evidence that the complainant did not consider the RFP or its submission to be binding and that it was merely a starting point for negotiations.<sup>28</sup>

41. In any event, the fact that Iron Mountain offered to provide the SOC2 report in its bid cannot assist Iron Mountain. The fact remains that the document was not provided, making the bid incomplete. The document, if it was to be relied upon by the evaluators for evidence of compliance, should have been provided in the bid.

42. Given the lack of any commitment as to future compliance (discussed below), the failure to provide the SOC2 and SOC3 reports was sufficient grounds for PWGSC to reasonably determine that the bid was non-responsive.

### **No Commitment to Achieve Future Compliance was Made**

43. M3 required bidders to commit to obtaining a SOC report from an independent third party at arm's length that would certify compliance with the relevant CGSB standards. This commitment was not expressly made by Iron Mountain in its bid.

44. The Tribunal also does not accept Iron Mountain's alternative argument that its offer to provide the SOC2 report (if PWGSC signed an NDA) could have been treated as a commitment to provide proof of future compliance.

45. An existing SOC2 report with unspecified content from an undisclosed author does not constitute a commitment to achieve future compliance of the kind described in M3.<sup>29</sup> The evaluators were reasonable in their conclusion in that respect.

### **Summary**

46. The Tribunal finds that PWGSC's evaluation of Iron Mountain's bid, namely, that it did not comply with the requirements of M3, was reasonable. Iron Mountain did not properly and fully respond to the applicable requirements of the RFP even though its responsibility was to respond in a proper and full manner.

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27. *InterCall Canada* (1 June 2009) (CITT) at para. 13.

28. In support of its position, Iron Mountain cited *EDS Canada* (10 January 1997), PR-96-020 (CITT) and *Tritech Group Ltd. v. Department of Public Works and Government Services* (31 March 2014), PR-2013-035 (CITT) [*Tritech*]. However, in *EDS Canada*, the complainant had submitted a compliant bid, to which was appended a request for modification. This request did not condition compliance with the bid, and PWGSC was not obliged to consider the request in order to evaluate the bid. Similarly, in *Tritech*, at para. 37, the Tribunal found that the two sentences added to the proposal by the complainant did not affect "... unit prices during the offer validity period or during ... the duration of the standing offer and, therefore, was irrelevant [in] ... ascertaining compliance."

29. The Tribunal notes that the SOC2 report was a document published by Iron Mountain; it did not contain an independent arm's length third party statement as to compliance with the specified CGSB standards, nor any mention of the said standards.

## Conclusion

47. In light of the foregoing, the Tribunal finds that the complaint is not valid.

## COSTS

48. The Tribunal awards PWGSC its reasonable costs incurred in responding to the complaint.

49. In determining the amount of the cost award for this complaint case, the Tribunal considered its *Procurement Costs Guideline* (the *Guideline*), which contemplates classification of the level of complexity of cases on the basis of three criteria: the complexity of the procurement, the complexity of the complaint and the complexity of the complaint proceedings.

50. The Tribunal's preliminary indication is that this complaint case has a complexity level corresponding to the lowest level of complexity referred to in Annex A of the *Guideline* (Level 1). The complexity of the procurement was low, as it involved the provision of one type of service. The Tribunal finds that the complexity of the complaint was low, as the issues were straightforward and dealt with whether PWGSC properly evaluated Iron Mountain's proposal against one mandatory criterion. Finally, the complexity of the proceedings was low, as the issues were resolved by the parties through documentary evidence and written representations, and a hearing was not necessary.

51. Accordingly, as contemplated by the *Guideline*, the Tribunal's preliminary indication of the amount of the cost award is \$1,150.

## DETERMINATION OF THE TRIBUNAL

52. Pursuant to subsection 30.14(2) of the *CITT Act*, the Tribunal determines that the complaint is not valid.

53. Pursuant to section 30.16 of the *CITT Act*, the Tribunal awards PWGSC its reasonable costs incurred in responding to the complaint, which costs are to be paid by Iron Mountain. In accordance with the *Guideline*, the Tribunal's preliminary indication of the level of complexity for this complaint case is Level 1, and its preliminary indication of the amount of the cost award is \$1,150. If any party disagrees with the preliminary indication of the level of complexity or the preliminary indication of the amount of the cost award, it may make submissions to the Tribunal, as contemplated by article 4.2 of the *Guideline*. The Tribunal reserves jurisdiction to establish the final amount of the award.

Serge Fréchette  
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Presiding Member