



BY FACSIMILE

November 28, 2003

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Re: The Powel Group - TPG Technology Consulting Ltd. (File No. PR-2003-065)

I wish to inform you that the Canadian International Trade Tribunal (the Tribunal) has reviewed the complaint submitted on behalf of The Powell Group - TPG Technology Consulting Ltd. (TPG) regarding a procurement (Solicitation Number EN869-20461/A) by Public Works and Government Services Canada (PWGSC). The Tribunal (Panel: James A. Ogilvy, Presiding Member; Richard Lafontaine, Member; Zdenek Kvarda, Member) has decided not to initiate an inquiry into this complaint.

Subsection 7(1) of the *Canadian International Trade Tribunal Procurement Inquiry Regulations* sets out the condition that the complaint, and any other information examined by the Tribunal in respect of the complaint, disclose a reasonable indication that the procurement has not been carried out in accordance with the applicable trade agreements.

In this case, PWGSC determined that TPG's proposal did not contain the required information to verify its claims of compliance and, therefore, rejected TPG's proposal. Although not obligated to seek any clarification, PWGSC requested that TPG clarify its proposal with respect to Consultant 11. TPG did so by providing references to information contained in its proposal, some of which had applied originally to another consultant. In the Tribunal's opinion, in attempting to apply this information to Consultant 11, TPG, in effect, provided new information which would not have been appropriate for PWGSC to accept. In the Tribunal's opinion, there is no reasonable indication that PWGSC violated any of the applicable trade agreements in its assessment of the clarification provided by TPG and the subsequent rejection of TPG's proposal. In the Tribunal's opinion, the evidence presented by TPG does not support the allegations that PWGSC either unfairly or improperly evaluated TPG's proposal.

Concerning the allegation that PWGSC breached the trade agreements during the evaluation of another bidder's proposal, the Tribunal is of the view that this allegation is speculative and without supporting evidence. On the question of whether PWGSC was inconsistent in its treatment of personnel resources proposed in the bids, the Tribunal is not convinced that PWGSC adopted a contradictory approach in evaluating the bids. It simply stated that, if any concerns about a proposed consultant come to light after the evaluation of proposals and the awarding of the contract, they would be addressed by it as a matter of contract administration. In the Tribunal's view, this does not preclude the use of any bid challenge mechanism nor does it necessarily result in keeping a contract in place if, after award, PWGSC finds a bidder's proposal to be non-compliant. In the Tribunal's opinion, the complaint did not provide convincing evidence that PWGSC acted contrary to the applicable trade agreement obligations when evaluating any of the bidders' proposals.

In light of the foregoing, the Tribunal finds that the complaint does not disclose a reasonable indication that the procurement has not been carried out in accordance with the applicable trade agreements. The Tribunal will not conduct an inquiry into this complaint and considers the matter closed.

Yours sincerely,

Michel P. Granger
Secretary