



**BY FACSIMILE**

April 28, 2004

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**Re: Solicitation Number 01587-040392/A  
International Infrared Camera Sales & Leasing Ltd. (File No. PR-2004-005)**

The Canadian International Trade Tribunal (the Tribunal) (Richard Lafontaine, Presiding Member) has reviewed the complaint submitted on behalf of International Infrared Camera Sales & Leasing Ltd. (International Infrared) and has decided not to initiate an inquiry into this complaint.

Subsection 6(1) of the *Canadian International Trade Tribunal Procurement Inquiry Regulations* (the Regulations) reads, in part, that a complaint must be filed with the Tribunal “not later than 10 working days after the day on which the basis of the complaint became known or reasonably should have become known to the potential supplier.”

Subsection 6(2) of the Regulations reads, in part, that a potential supplier may object to the relevant government institution “within 10 working days after the day on which its basis became known or reasonably should have become known to the potential supplier” and has 10 more working days “after the day on which the potential supplier has actual or constructive knowledge of the denial of relief” by the government institution within which to file a complaint with the Tribunal.

International Infrared submits that, on January 25, 2004, it filed an objection with the Department of Public Works and Government Services (PWGSC) regarding Advance Contract Award Notice (ACAN), solicitation number 01587-041032/A. According to the complaint, on February 24, 2004, PWGSC sent the minimum performance specifications to International Infrared and requested that it provide a statement of capabilities indicating how it was able to meet and/or exceed the minimum performance specifications. On March 2, 2004, International Infrared responded to PWGSC’s request. On March 12, 2004, PWGSC requested further clarification from International Infrared and, for operational requirements, required a response by March 15, 2004. On March 22, 2004, PWGSC advised International Infrared that a contract had been awarded.

The Tribunal is of the view that International Infrared knew on March 12, 2004, that according to PWGSC, its statement of capabilities did not clearly address all the required specifications and that it was required to provide further clarification to PWGSC by no later than March 15, 2004. The Tribunal is also of the view that International Infrared knew on March 12, 2004, that if it was unable to provide documentation, along with published literature showing that it was able to meet and/or exceed the minimum performance requirements by the date noted, its challenge would be denied and PWGSC would continue with the procurement as proposed in the ACAN. Furthermore, the Tribunal is of the opinion that International Infrared received a definite denial of relief on March 22, 2004, when it was informed that a contract had been awarded. In the Tribunal's view, ten working days from that date was April 5, 2004. However, the complaint in this case was not filed with the Tribunal until April 16, 2004. The Tribunal therefore considers the complaint to have been filed outside of the time limits permitted by section 6 of the Regulations.

In light of the above, the Tribunal will not conduct an inquiry into this complaint and considers the matter closed.

Yours sincerely,

Susanne Grimes  
Acting Secretary