



BY FACSIMILE

June 25, 2004

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Re: Solicitation Number CCAB-3-0435
Centre for Public Management Inc. (File No. PR-2004-015)

The Canadian International Trade Tribunal (the Tribunal) (Meriel V. M. Bradford, Presiding Member) has reviewed the complaint submitted on behalf of Centre for Public Management Inc. (CPM) 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 30.11(2) of the *Canadian International Trade Tribunal Act* (the *CITT Act*) reads as follows:

- (2) A complaint must
- (a) be in writing;
 - (b) identify the complainant, the designated contract concerned and the government institution that awarded or proposed to award the contract;
 - (c) contain a clear and detailed statement of the substantive and factual grounds of the complaint;
 - (d) state the form of relief requested;
 - (e) set out the address of the complainant to which notices and other communications respecting the complaint may be sent;
 - (f) include all information and documents relevant to the complaint that are in the complainant’s possession;
 - (g) be accompanied by any additional information and documents required by the rules; and
 - (h) be accompanied by the fees required by the regulations.

Subrule 96(1) of the *Canadian International Trade Tribunal Rules* (the Rules) reads as follows:

96. (1) A complaint shall be considered to have been filed
- (a) on the day it was received by the Tribunal; or
 - (b) in the case of a complaint that does not comply with subsection 30.11(2) of the Act, on the day that the Tribunal receives the information that corrects the deficiencies in order that the complaint comply with that subsection.

CPM alleges that Consulting and Audit Canada, an agency of the Department of Public Works and Government Services (PWGSC) evaluated its proposal improperly by using an unfair interpretation of the definition of Rating Level for rated criterion and making use of a technical term that was not in accordance with generally accepted Program Evaluation Standards and Practices and commonly accepted definitions of technical terms.

According to the complaint, on May 13, 2004, PWGSC informed CPM that it would not be awarded a contract. On May 28, 2004, PWGSC provided CPM with the scores its submission received during the evaluation process. An e-mail from PWGSC dated June 3, 2004, to CPM read, in part, that “because the procurement is subject to the trade agreements, you have 10 days from the date of the last debriefing (June 2, 2004) to file a complaint with the Canadian International Trade Tribunal.” However, the Tribunal is of the view that CPM knew its grounds of complaint on May 28, 2004, when it received the detailed results of the evaluation of its submission. As specified in subsection 6(1) of the Regulations, CPM would, therefore, have had until June 11, 2004, to file a complaint with the Tribunal. That complaint would have had to comply with all the requirements in subsection 30.11(2) of the *CITT Act*.

CPM’s initial submission was received by the Tribunal on June 14, 2004. In its letter of June 16, 2004, the Tribunal indicated that that submission did not comply with the requirements of subsection 30.11(2) of the *CITT Act*. CPM’s response to the Tribunal’s request for information to correct the deficiencies was received by the Tribunal on June 18, 2004. Pursuant to paragraph 96(1)(b) of the Rules, CPM’s complaint would have been considered filed on the day that the Tribunal received the information that corrected the deficiencies, or, in other words, no earlier than June 18, 2004. Accordingly, CPM’s complaint was filed outside the time limits set out in subsection 6(1) of the Regulations. Moreover, the Tribunal wishes to indicate that even if the Tribunal were to consider June 2, 2004, the date of the debriefing, as the date upon which CPM first knew its grounds of complaint, the complaint would still have been filed outside the time imposed by the Regulations.

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

Yours sincerely,

Hélène Nadeau
Secretary