



BY FACSIMILE

July 28, 2004

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Re: Sterling Resources International Company (File No. PR-2004-022)

The Canadian International Trade Tribunal (the Tribunal) (Patricia M. Close, Presiding Member) has reviewed the complaint submitted on behalf of Sterling Resources International Company (Sterling) and has decided that the complaint is premature and it, therefore, will not initiate an inquiry into the complaint at this time.

Subsection 6(2) of the *Canadian International Trade Tribunal Procurement Inquiry Regulations* (the Regulations) provides that a potential supplier who has made an objection to the relevant government institution within 10 working days after the day on which the basis of the objection became known or reasonably should have become known to the potential supplier, 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 a denial of relief by the government institution.

Sterling alleged that the Department of Public Works and Government Services (PWGSC) incorrectly amended a contract instead of tendering the requirement on a competitive basis. According to the complaint, on July 13, 2004, Sterling was verbally advised of the procurement by a member of Consulting and Audit Canada’s Peoplesoft cluster group. On July 15, 2004, Sterling made an objection to PWGSC and on July 20, 2004, it sent an additional letter to the Minister of PWGSC raising concerns about the procurement. The complaint does not indicate that Sterling has received a response from PWGSC.

The Tribunal finds that because Sterling has not yet received a denial of relief as contemplated by subsection 6(2) of the Regulations and, that there has not yet been sufficient time for the government to respond that the complaint is premature. The Tribunal’s decision at this time would not preclude any future complaint by Sterling once PWGSC has responded to Sterling’s objection. If Sterling wishes to file a new complaint, it must do so within 10 working days after which it receives constructive denial of relief by the government. Should PWGSC take an unreasonable amount of time to respond to that objection, Sterling may also file a new complaint with the Tribunal. In addition, that complaint must contain a clear and detailed statement of the substantive and factual grounds of the complaint (i.e. the complaint should explain what causes Sterling to believe that PWGSC violated the applicable trade agreements). Finally, the complaint should also include information such as the contract number and dollar value of the amendment. Sterling can request that the evidence previously filed be joined with any new complaint.

Yours sincerely,

Susanne Grimes
Acting Secretary