



**BY FACSIMILE**

September 1, 2004

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**Re: RFSO Solicitation Number BCD-001-2004  
Brymark Promotions Inc. (File No. PR-2004-030)**

The Canadian International Trade Tribunal (the Tribunal) (Pierre Gosselin, Presiding Member, Richard Lafontaine, Member and Meriel V. M. Bradford, Member) has reviewed the complaint submitted on behalf of Brymark Promotions Inc (Brymark) 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.

Brymark alleged that the Department of Foreign Affairs and International Trade (DFAIT) (as it then was) improperly rejected your proposal in regards to the subject solicitation. According to the complaint, on August 19, 2004, Brymark objected to the contracting authority about its decision to disqualify its proposal. The complaint indicates that, on August 20, 2004, DFAIT acknowledged Brymark’s objection, but was unable to address its concerns because the person in the contracting section was on holidays, but would be back to work on August 23, 2004.

The Tribunal finds that Brymark has not yet received a denial of relief as contemplated by subsection 6(2) of the Regulations, as DFAIT has yet to respond to the objection, and therefore that the complaint is premature. The Tribunal’s decision at this time does not preclude any future complaint by Brymark once DFAIT has responded to its objection or, if DFAIT has failed to do so within a reasonable amount of time, which, in the Tribunal’s opinion, would be by September 23, 2004.

If Brymark wishes to file a new complaint, it must do so within 10 working days after it receives actual denial of relief by DFAIT. However, if its objection is not addressed by September 23, 2004, Brymark can assume denial of relief and therefore any complaint must be filed within 10 working days of that date, i.e. by Thursday October 7, 2004. In either circumstance, Brymark may request that the documentation already on file with the Tribunal be joined to the new complaint.

Yours sincerely,

Hélène Nadeau  
Secretary