



BY FACSIMILE

November 16, 2004

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**Re: Solicitation Number W0113-04B069/A
Trust Business Systems (File No. PR-2004-039)**

The Canadian International Trade Tribunal (the Tribunal) (Ellen Fry, Presiding Member) has reviewed the complaint submitted on behalf of Trust Business Systems (Trust) and has decided not to initiate an inquiry into this complaint.

Subsection 6(2) of the *Canadian International Trade Tribunal Procurement Inquiry Regulations* (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.

Trust alleges that the Department of Public Works and Government Services (PWGSC) incorrectly limited the procurement to a particular supplier, Cisco. According to the complaint, PWGSC published an Advance Contract Award Notice (ACAN) on September 3, 2004. On September 20, 2004, Trust made an objection to PWGSC with respect to the ACAN. On October 1, 2004, PWGSC provided Trust with a list of all the products requiring maintenance and requested that Trust submit a Statement of Capabilities. PWGSC established a deadline for the submission of the Statement of Capabilities of 12 noon on October 13, 2004. On October 13, 2004, Trust requested detailed information from PWGSC, which, according to Trust, was necessary in order for Trust, as a supplier other than Cisco, to respond to the requirement. On October 18, 2004, Trust requested confirmation from PWGSC that it had received its email of October 13, that PWGSC resend the list of products previously sent on October 1 and that PWGSC advise Trust when it will receive answers to its questions. On October 20, 2004, PWGSC responded to Trust's Oct 13th and 18th communications by advising Trust, that the ACAN outlined the requirements. On October 22, 2004, Trust responded to PWGSC indicating that it required answers to its questions in order to provide a Statement of Capabilities. On October 25, 2004, PWGSC informed Trust that since Trust did not supply a Statement of Capabilities PWGSC was proceeding as stated in the ACAN. On November 9, 2004, Trust filed its complaint with the Tribunal.

The email sent by PWGSC to Trust on October 20, 2004, indicates that PWGSC would not be providing the additional information requested by Trust. Consequently, when Trust read that email, it should reasonably have known that PWGSC would not take further action to address its objection that it did not have sufficient information to respond to the ACAN. Consequently this email amounts to a denial of relief by PWGSC with respect to Trust's objection. Trust's complaint, filed on November 9, 2004, was therefore filed more than ten working days after Trust had received PWGSC's denial of relief. The Tribunal finds the complaint to have been filed outside of the time limits prescribed by subsection 6(2) of the Regulations and therefore cannot accept the complaint for inquiry.

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