



BY FACSIMILE

June 15, 2005

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**Re: Solicitation Number 24062-030147/C
Envoy Relocation Services (File No. PR-2005-009)**

The Canadian International Trade Tribunal (the Tribunal) (Panel: James A. Ogilvy, Presiding Member; Patricia M. Close, Member; Meriel V.M. Bradford, Member) has reviewed the complaint submitted on behalf of Envoy Relocation Services (Envoy) on June 8, 2005, and has decided not to initiate an inquiry into this complaint.

Envoy alleged that the Department of Public Works and Government Services (PWGSC) awarded contracts to Royal LePage Relocation Services that contained different requirements than had been published in the request for proposal (RFP) and, therefore, that the RFP failed to identify the actual requirements of the procurement.

Subsection 7(1)(c) of the *Canadian International Trade Tribunal Procurement Inquiry Regulations* reads, in part, that the Tribunal shall, within five working days after the day on which the complaint is filed, determine whether “the information provided by the complainant ... discloses a reasonable indication that the procurement has not been carried out in accordance with whichever one of Chapter Ten of NAFTA, Chapter Five of the Agreement on Internal Trade or the Agreement on Government Procurement ... applies”.

According to the complaint, on May 4, 2005, Envoy became aware of two instances in which the contracts differed from the requirements listed in the solicitation documents. The first was that the RFP listed the date for the commencement of the contracts as December 1, 2004, whereas Envoy learned that the commencement date for services was actually April 1, 2005. The second was that the requirement for the contractor to provide certain directory services and work distribution among third party suppliers was not included in the contracts.

On May 25, 2005, PWGSC responded to these allegations by claiming: that both were matters of contract administration; that the contracts did contain the RFP-related provisions regarding the third party suppliers, but that there was a proposed amendment that would alter this requirement; and that all bidders' proposals were evaluated based on the same criteria to ensure that the successful bidder would be fully operational as of December 1, 2004, the date stated in the RFP.

On the basis of the information submitted with the complaint the Tribunal finds that Envoy has failed to provide enough information to support its argument that the contracts were awarded based on criteria not included in the RFP.

Regarding the commencement of service date, the Tribunal notes that the Fairness Monitor's report included with the complaint states that the evaluation of all proposals took place between June 16 and July 1, 2004. The Tribunal believes it reasonable that the evaluators expected the contracts to be awarded during the summer of 2004, as indicated in the "General Information" section of the RFP, and that they properly evaluated the proposals in accordance with that aspect of the RFP requirements – i.e. that the services had to be ready to be in place by December 1, 2004. Any concerns that the evaluators may have expressed regarding the sufficiency of time for training would therefore have been stated in the context of the expectation that several months would elapse between the award of the contract and the commencement of service under the contract. The Tribunal believes that any delays in getting a contract signed or services started occurred after the evaluation of the proposals and was not known by, or under the control of, the evaluators when the evaluation was conducted.

Regarding services related to third party suppliers, the Tribunal notes that PWGSC's letter states that the requirement, as listed in the RFP, was included in the contracts. The Tribunal takes this assertion at face value and therefore concludes that, in this respect, the contracts were awarded in accordance with the RFP provisions. The Tribunal notes that while the Government may now be seeking to make an amendment to the contracts to reflect a change in its requirement, it is beyond the jurisdiction of the Tribunal to inquire into the rationale for that amendment.

Therefore, there is not a reasonable indication that PWGSC breached the *Agreement on Internal Trade*, the only trade agreement applicable to this requirement, in awarding the contracts in question.

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