



**BY FACSIMILE**

September 1, 2004

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**Re: Sovereign Sedan and Limousine (File No. PR-2004-031)**

The Canadian International Trade Tribunal (the Tribunal) (Presiding Member: Ellen Fry) has reviewed the complaint submitted by Sovereign Sedan and Limousine (Sovereign) regarding Public Works and Government Services Canada (PWGSC) Request for a Standing Offer (RFSO) numbers W5942-02TN03/C (the first RFSO) and W5942-04TN08/A (the second RFSO) on behalf of the Department of National Defence (DND). The Tribunal has decided not to initiate an inquiry into this complaint.

According to subsection 6(1) of the *Canadian International Trade Tribunal Procurement Inquiry Regulations* (Regulations), a complaint shall be filed with the Tribunal no 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 6(2) of the Regulations states that a potential supplier who has made an objection regarding a procurement relating to a designated contract to the relevant government institution, and is denied relief by that government institution, may file a complaint with the Tribunal within the 10 working days after the day on which the potential supplier has actual or constructive knowledge of the denial of relief, if the objection was made within 10 working days after the day on which its basis became known or reasonably should have become known to the potential supplier.

Subsection 7(1) of the Regulations requires that the complaint, and any other information examined by the Tribunal, disclose a reasonable indication that the procurement has not been carried out in accordance with the following trade agreements: the *North American Free Trade Agreement* (NAFTA), the *Agreement on Internal Trade* (AIT) or the *Agreement on Government Procurement* (AGP) as found in Annex Four of the World Trade Organization Agreement.

Sovereign's allegations for both of these solicitations are:

1. That the standing offers were not issued in accordance with the criteria set out in the RFSOs.
2. That the tenders submitted in response to the RFSOs were not properly evaluated.

3. That there was not equal access to the procurement and that the tendering procedures were not applied in a non-discriminatory manner.
4. That the procurement was biased against it.

With respect to the first RFSO, the Tribunal notes that Sovereign made an objection to PWGSC on February 19, 2004. The Tribunal considers that Sovereign received a denial of relief in a letter from PWGSC dated July 16, 2004. Sovereign did not file its complaint with the Tribunal until August 25, 2004, some 27 working days after this denial of relief. This falls outside the timeframes prescribed in section 6 of the Regulations. Consequently, the Tribunal does not have jurisdiction to inquire into the grounds of complaint concerning the first RFSO.

With respect to the second RFSO, the Tribunal has determined that the complaint does not disclose a reasonable indication that the procurement was not carried out in accordance with the provisions of the trade agreements. In light of the foregoing, the Tribunal will not conduct an inquiry into this complaint and considers the matter closed.

Yours sincerely,

Hélène Nadeau  
Secretary