



BY FACSIMILE

November 23, 2004

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**Re: Solicitation Numbers K2609-030001/A and K2609-030001/B
St. Joseph Corporation (File No. PR-2004-040)**

The Tribunal has reviewed the complaint dated November 15, 2004, by St. Joseph Corporation (St. Joseph) regarding the procurement by Public Works and Government Services Canada (PWGSC) on behalf of Environment Canada (Request for Proposal Nos. K2609-030001/A and K2609-030001/B). The Tribunal (Presiding Member, Pierre Gosselin) has decided not to initiate an inquiry into this complaint.

Subsection 7(1) of the Regulations requires that the information provided by the complainant, and any other information examined by the Tribunal in respect of the complaint, disclose a reasonable indication that the procurement has not been carried out in accordance with either Chapter Ten of NAFTA, Chapter Five of the Agreement on Internal Trade, the Agreement on Government Procurement or the Canada - Korea Agreement on the Procurement of Telecommunications Equipment, whichever applies.

St. Joseph alleges that PWGSC improperly evaluated its proposal, in that the assessment set out to deduct marks as opposed to awarding marks in areas that needed slight clarification or in areas where the vendor would typically be provided with the benefit of the doubt. St. Joseph also alleges that the rating scheme failed to provide the objectivity required to evaluate the total solution which St. Joseph presented in its bid and that the RFP was specifically written with another supplier in mind. Finally, St. Joseph alleges that the evaluation contradicted information provided at the bidders' conference.

In the opinion of the Tribunal, the evidence contained in the complaint does not adequately support St. Joseph's allegations that its proposal was unfairly evaluated or that the RFP was biased toward a particular supplier. As an example, St. Joseph submitted that it was awarded zero points on the project management portion of its proposal because its bid failed to indicate that the proposed project manager and back-up had sufficient experience with projects of similar size as the project in the subject procurement. St. Joseph submitted that during the bidders' conference it was told to provide project management skills related to technology experience, however, in the Tribunal's view, page 20 of 46 of the RFP clearly indicates under

the rated requirement for 'Project team manager and back-up person' that the bidder should include information on personnel training, qualifications, and work experience including participation on projects of a comparable scale, their roles in each project, the size and duration of the project, and client references and phone numbers [emphasis added]. In this instance, and with respect to all allegations made by St. Joseph, the Tribunal finds that there is insufficient evidence provided in the complaint for it to determine that there is a reasonable indication that PWGSC violated any provisions of the applicable trade agreements.

In addition, with respect to the time frames for filing a complaint, the Tribunal wishes to indicate for future reference that all information applicable to the complaint must be submitted to the Tribunal within the time frames prescribed in section 6 of the Regulations.

In light of the above, the Tribunal has determined that the complaint does not disclose a reasonable indication that the procurement has not been carried out in accordance with the applicable trade agreements. The Tribunal will not, therefore, conduct an inquiry into this complaint and the matter is considered closed.

Yours sincerely,

Hélène Nadeau
Secretary