



**BY FACSIMILE**

August 9, 2005

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**Re: The Corporate Research Group (File No. PR-2005-012)**

The Canadian International Trade Tribunal (the Tribunal) (Presiding Member: Ellen Fry) has reviewed the complaint submitted by The Corporate Research Group (the Group) on July 28, 2005, regarding Public Works and Government Services Canada (PWGSC) National Individual Standing Offer (NISO) number EP324-040231/A. 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.

According to the complaint, the Group filed its last objection concerning the mandatory requirements of the NISO on July 8, 2005, when it directed some questions to PWGSC and requested that some modifications to the required qualifications be made to the NISO. On July 13, 2005, PWGSC answered the Group's questions and confirmed that it was maintaining the qualifications for the various categories at their current level. In the Tribunal's opinion, this e-mail dated July 13, 2005 and PWGSC's issuance of solicitation amendment number 002, on July 13, 2005, provided the Group with its denial of relief. In order to be considered timely, a complaint would have had to be filed with the Tribunal within 10 working days of July 13, 2005, that is by July 27, 2005. The complaint you filed on July 28, 2005, was therefore not filed within the time limits set by the Regulations.

Moreover, the Tribunal notes that your complaint did not fulfill one of the requirements of subsection 7(1) of the Regulations. This subsection 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.

The Group alleges that the NISO contains unnecessarily restrictive and biased language, specifically unsubstantiated requirements concerning professional designations. It also alleges that PWGSC should not have released its name along with its questions and objections to the client, has falsely prejudged the Group's experience before any proposal has been submitted and did not appropriately answer some of its questions.

With respect to the allegation regarding the unsubstantiated requirements for professional designations, the Tribunal is of the opinion that the complaint does not disclose a reasonable indication that the requirements were not essential to ensure the fulfillment of the contracts in issue.

Regarding PWGSC's release of the Group's name with its questions and objections to the client, the Tribunal is of the opinion that the complaint does not disclose a reasonable indication that, by doing so, PWGSC breached any of the applicable trade agreements.

As for the other grounds of complaint, the Tribunal finds that the information provided by the Group to support the allegations that PWGSC had prejudged its potential bid or has inappropriately answered some of its questions does not disclose a reasonable indication that PWGSC has breached any of the applicable trade agreements.

In light of the foregoing, the Tribunal will not conduct an inquiry into this complaint. This matter is hereby concluded.

Yours sincerely,

Susanne Grimes  
Acting Secretary