



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Procurement

DETERMINATION AND REASONS

File No. PR-2006-010

CGI Information Systems and
Management Consultants Inc.

v.

Department of Public Works and
Government Services

*Determination and reasons issued
Monday, August 14, 2006*

Canada

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IN THE MATTER OF a complaint filed by CGI Information Systems and Management Consultants Inc. under subsection 30.11(1) of the *Canadian International Trade Tribunal Act*, R.S.C. 1985 (4th Supp.), c. 47;

AND FURTHER TO a decision to conduct an inquiry into the complaint under subsection 30.13(1) of the *Canadian International Trade Tribunal Act*.

BETWEEN

**CGI INFORMATION SYSTEMS AND MANAGEMENT
CONSULTANTS INC.**

Complainant

AND

**THE DEPARTMENT OF PUBLIC WORKS AND GOVERNMENT
SERVICES**

**Government
Institution**

DETERMINATION OF THE TRIBUNAL

Pursuant to subsection 30.14(2) of the *Canadian International Trade Tribunal Act*, the Canadian International Trade Tribunal determines that the complaint is not valid.

Pursuant to section 30.16 of the *Canadian International Trade Tribunal Act*, the Canadian International Trade Tribunal awards the Department of Public Works and Government Services its reasonable costs incurred in responding to the complaint, which costs are to be paid by CGI Information Systems and Management Consultants Inc. The Canadian International Trade Tribunal's preliminary indication of the level of complexity for this complaint case is Level 1, and its preliminary indication of the amount of the cost award is \$1,000. If any party disagrees with the preliminary indication of the level of complexity or the preliminary indication of the amount of the cost award, it may make submissions to the Canadian International Trade Tribunal, as contemplated by the *Guideline for Fixing Costs in Procurement Complaint Proceedings*. The Canadian International Trade Tribunal reserves jurisdiction to establish the final amount of the award.

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Serge Fréchette
Presiding Member

Zdenek Kvarda
Zdenek Kvarda
Member

James A. Ogilvy
James A. Ogilvy
Member

Susanne Grimes
Susanne Grimes
Acting Secretary

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STATEMENT OF REASONS

COMPLAINT

1. On May 15, 2006, CGI Information Systems and Management Consultants Inc. (CGI) filed a complaint with the Canadian International Trade Tribunal (the Tribunal) under subsection 30.11(1) of the *Canadian International Trade Tribunal Act*.¹ The complaint concerned the procurement (Solicitation No. W8484-05AA03/B) by the Department of Public Works and Government Services (PWGSC) on behalf of the Department of National Defence (DND) for the provision of Desktop Management Services (DMS).

2. CGI alleged that the procurement process was conducted in a manner that gave rise to a reasonable apprehension of bias because a company that was involved in the preparation of the Request for Proposal (RFP) and in the evaluation of proposals, ASC Group Ltd. (ASC), appeared to have a close business affiliation with the winning bidder, IBM Canada Limited (IBM).

3. On May 19, 2006, the Tribunal informed the parties that the complaint had been accepted for inquiry, as it met the requirements of subsection 30.11(2) of the *CITT Act* and the conditions set out in subsection 7(1) of the *Canadian International Trade Tribunal Procurement Inquiry Regulations*.² On June 5, 2006, IBM requested leave to intervene in the proceedings. On June 6, 2006, the Tribunal granted IBM's request. On June 13, 2006, PWGSC submitted the Government Institution Report (GIR). On June 22, 2006, IBM submitted its comments on the GIR. On June 23, 2006, CGI submitted its comments on the GIR.

4. Given that there was sufficient information on the record to determine the validity of the complaint, the Tribunal decided that a hearing was not required and disposed of the complaint on the basis of the written information on the record.

PROCUREMENT PROCESS

5. The RFP that is the subject of the complaint is for DMS services that consist of the following: managing and supporting the DND-wide workstation environment; providing transitioning, training and contract management services; and providing related information technology services on an "as and when requested" basis. The contract is for three years, with two one-year options to be exercised at the Government's discretion.

6. According to PWGSC, DND and PWGSC initiated discussions in December 2004 regarding this solicitation and established that Tabular Format© (TF!) would be used. According to PWGSC, TF! is a software package, proprietary to ASC, used in the procurement and bidding process to assist the procuring entity in the use and analysis of data submitted by bidders, which would be required to submit bid information using TF!. A Letter of Interest (LOI) was issued on MERX³ on April 15, 2005. According to PWGSC, 62 LOI packages were requested by potential suppliers, 11 of which provided feedback to PWGSC regarding the solicitation. The RFP was made available through MERX on June 22, 2005, with a due date for the receipt of bids of August 2, 2005. There were 11 amendments to the RFP, and the closing date was extended to September 1, 2005. According to PWGSC, 5 proposals were received, 2 of which did not meet certain minimum mandatory technical criteria and were disqualified. PWGSC submitted that the evaluation process was completed on October 28, 2005, but that the contract was not awarded until May 9, 2006,

1. R.S.C. 1985 (4th Supp.), c. 47 [*CITT Act*].

2. S.O.R./93-602 [*Regulations*].

3. Canada's electronic tendering service.

due to the federal election of January 2006 and a delay in obtaining Treasury Board approval of the contract. On that date, the contract was awarded to IBM. PWGSC submitted that it informed CGI on May 11, 2006, that its bid was unsuccessful.

7. According to PWGSC, CGI contacted PWGSC on April 13 and 18, 2006, to make known its concerns regarding an alleged relationship between ASC and IBM and the potential conflict of interest relating to the solicitation.

8. CGI sought confirmation that, had IBM submitted a proposal, it would have been rejected in accordance with clause A.15 of the RFP, which reads as follows:

Conflict of Interest

- (a) Canada has employed the assistance of private sector contractors in the preparation of this solicitation. Responses to this solicitation from any such contractor or with respect to which such contractor (or any subcontractor, employee, agent or representative of that contractor who was involved in the preparation of this solicitation) is in any manner directly or indirectly involved will be deemed to be in conflict of interest (real or perceived) and will not be considered. By submitting a bid, the Bidder represents that there is no such conflict of interest as stated above

9. PWGSC submitted that it contacted ASC and IBM as a result of these allegations and obtained information from both of them that they were not in a business relationship. On May 8, 2006, PWGSC advised CGI that it had considered CGI's concerns and that it was confident that the procurement had been conducted in accordance with its obligations under the trade agreements. It also advised CGI that it considered the matter closed.

10. On May 15, 2006, CGI filed its complaint with the Tribunal.

POSITIONS OF THE PARTIES

CGI's Position

11. CGI submitted that the GIR contained only one paragraph regarding the substantive element of its complaint—apprehension of bias—and that the remainder of the GIR focussed on the conflict of interest clause contained in the RFP. CGI submitted that its complaint did not concern a violation of clause A.15 of the RFP, as it accepted that, in accordance with the narrow scope of that clause, ASC neither bid itself nor was involved in IBM's bid.

12. CGI submitted that ASC listed IBM as an affiliate on its Web site.⁴ Specifically, it noted that a section of ASC's Web site entitled "Affiliates" contained the following statement:

IBM Consulting Canada has been working with ASC since 1997 on TF! and SeeSOR projects . . . IBM Consulting and ASC have worked on a large number of Canadian Department of Defence TF! and SeeSOR projects.

4. ASC's Web site was changed at some point after CGI made its concerns known to PWGSC in April 2006. IBM is no longer listed as an affiliate.

13. CGI submitted that it did not know what type of business relationship the two companies actually had. It interpreted these statements as meaning that ASC and IBM have had a long and close relationship, that that relationship was based on TF!, and that the two companies worked on a large number of DND contracts using that software.

14. CGI claimed that PWGSC's understanding of ASC's Web site, i.e. that "... IBM personnel have been trained and certified to assist and support the products and tools produced by ASC Group...",⁵ is untenable, as merely training personnel to use ASC's products does not equate to an "affiliate" relationship. It noted that other evidence supplied in the GIR indicated that the two companies worked with each other and that this relationship was more than a trainer/trainee relationship.

15. According to CGI, ASC confirmed the following in Exhibit 11 of the GIR:

...

[ASC has] explained that ASC Group and IBM have not done directly any work together for approximately one and a half years, because the work IBM was doing for ASC Group in Canada has now been taken over by a new person

. . . the last date in which IBM performed services for ASC Group on a DND project was during the period ending 30 November 2004. Upon conclusion of that project, ASC group did not use the support of IBM or its personnel on any future projects

16. CGI also remarked upon the timing of some of the events described by ASC. It submitted that, according to the evidence, IBM and ASC were working together until immediately before ASC was retained by DND to assist with the RFP in question. CGI submitted that, apparently in November or December 2004, IBM simply switched from being an ASC subcontractor on DND projects using TF! to being a bidder in response to a solicitation on which ASC worked for DND on TF!.

17. CGI also noted that the May 4, 2006, questions that PWGSC asked IBM, regarding CGI's conflict of interest allegations, were all in the present tense, e.g. "... *Is* IBM Canada Limited a subcontractor . . ."⁶ (emphasis added). According to CGI, the wording is such that IBM and ASC could have been sister companies up to May 3, 2006, and still have been able to respond in the negative to PWGSC's questions.

18. CGI submitted the following:

- ASC played a role in the preparation of the RFP and the evaluation of bids for the DMS project.
- According to ASC's Web site, there was a close business relationship between ASC and IBM.
- The DMS contract was awarded to IBM despite those facts.

19. Regarding the apprehension of bias, CGI noted that the GIR only stated that ASC provided "certain services" that included what was described as technical support in the preparation of the RFP and evaluation of the bids—it did not expand on this to provide a complete description of ASC's role. CGI submitted that ASC's central role in the preparation of the solicitation and the evaluation of the proposals apparently had the potential to influence the outcome of the procurement. It contended that working on the creation of the Statement of Work (SOW) and the evaluation criteria can have a significant impact on, and will sometimes define, the outcome of a procurement.

5. GIR at 15.

6. GIR at 10.

20. CGI submitted that, in addition to assisting with the preparation of the LOI and RFP, an ASC consultant was a member of the technical assessment group and, as defined by the DMS Phase 2 Assessment Directive,⁷ was involved in the generation of bidder clarification questions, the Interim Partial Bid Period assessment and the Final Bid and Evaluation Period assessment. According to CGI, as ASC was responsible for removing the financial information from vendor proposals before they were given to the technical evaluation team, ASC had a fiduciary role that should have been filled by an entity with no association to any bidder.

21. CGI claimed that to award a contract to IBM based on a procurement conducted with the assistance of IBM's affiliate or business partner, where IBM's affiliate or business partner evaluated IBM's bid, would damage the integrity of the public procurement process. It therefore requested that the contract awarded to IBM be cancelled and that, as the second-ranked bidder, it be awarded the contract.

PWGSC's Position

22. PWGSC submitted that ASC's role was limited to providing technical support regarding the use of TF! to PWGSC and DND procurement officials. It submitted that ASC's services were engaged on April 1, 2005, and that its personnel assisted in the preparation of the LOI and RFP to ensure that these documents were properly worded, formatted and organized for use with the technical requirements of TF!. PWGSC also submitted that, during the evaluation process, ASC personnel provided technical support to the evaluators regarding the use of TF! and removed the financial information from the bids before they were provided to the technical assessment group. PWGSC submitted that ASC personnel had no input into the establishment of the terms of the RFP requirements or in the actual evaluation of proposals. It submitted that ASC's role was limited to ensuring that the wording, formatting and organization of the RFP were in accordance with the technical requirements of TF!.

23. According to PWGSC, ASC's role was clearly disclosed to all potential participants, and bidders were informed, in both the LOI and RFP, that TF! would be used and that ASC would provide TF! training and information services to potential suppliers. It submitted that the LOI stated the following:⁸

...

Canada has employed the assistance of a private sector contractor, ASC Group Inc., in the preparation of this solicitation. The Tabular Format© (TF!) software used in the bidding process contains information proprietary to ASC Group Inc. ...

24. PWGSC also submitted that the RFP, at clause A.15(b), in addition to reiterating that it had employed the assistance of a private sector contractor in the preparation of the solicitation, also stated the following:

For the purposes of this Article, it is not a conflict of interest for Bidders to receive training from ASC Group Inc. in the use of the Tabular Format© software in order to enable Bidders to submit a proposal.

25. PWGSC submitted that, in response to questions submitted during the solicitation period regarding the protection of bidders' confidential information, bidders were advised, in answers 236 and 238 of amendment No. 11 issued on August 22, 2005, as follows:

7. Complaint, tab 3.

8. LOI at 2.

...

Upon receipt of the Bidder's initial partial bid on bid closing and until Contract Award, access to confidential information shall be limited to authorized PWGSC personnel (i.e. Contracting Authorities and PWGSC Auditors). Limited access shall be granted to the ASC Group Inc. in order to remove financial information from electronic copies of Volume IB [of the proposal], on PWGSC equipment. A non-disclosure agreement has been signed by ASC Group Inc.

...

Upon receipt of the initial partial bid, the PWGSC Contracting Authority shall make a copy of the Bidder's original electronic copy of Volume IB - Tabular Format © Worksheets. Under the supervision of the PWGSC Contracting Authority and on Crown-owned equipment, an ASC member removes the financial information contained in the blue cells of the worksheets from the copy made by PWGSC. The technical evaluation team is then provided with the copy containing no financial information contained in the blue cells of the worksheets.

26. PWGSC also submitted that, after CGI contacted it in April 2006 regarding this issue, PWGSC contacted both ASC and IBM and that both companies confirmed that the two did not have a business relationship. It submitted that ASC confirmed⁹ the following:

- ASC and IBM are "... 'totally separate entities', not corporately related to one other"
- The reference to IBM as an "affiliate" on its Web site related to "... the fact that in the past, IBM have supported ASC Group products, meaning that IBM personnel have been trained and certified to assist and support the products and tools produced by ASC Group"
- ASC Group and IBM "... have not done directly any work together for approximately one and a half years", with the last work done together in the period ending November 30, 2004.

27. PWGSC submitted that IBM confirmed the following:¹⁰

...

1. Is IBM Canada Limited a subcontractor, employee, agent or representative of the ASC Group, Incorporated? *No*
2. Is the ASC Group, Incorporated a subcontractor, employee, agent or representative of IBM Canada Limited? *No*
3. Is there any relation of subcontract, employment, agency or representation in existence between IBM Canada Limited and the ASC Group, Incorporated? *No*

...

[Emphasis added]

28. PWGSC submitted that, given this information, there was no violation of the conflict of interest provisions in clause A.15 of the RFP. It submitted that, when combined with the fact that ASC's role in the procurement process was clearly that of providing technical support to the evaluators, there was no support for any finding that "... an informed person, viewing the matter realistically and practically - and having

9. GIR, Exhibits 10, 11.

10. GIR, Exhibit 13.

thought the matter through . . .”¹¹ would find any basis for a reasonable apprehension of bias regarding the conduct of the procurement process.

29. PWGSC requested that the complaint be dismissed and that it be awarded its costs for responding to the complaint.

IBM’s Position

30. IBM submitted that it agreed with the facts set out in the GIR. It stated that there was no type of relationship between ASC and IBM that created either a conflict of interest or a reasonable apprehension of bias in the solicitation at issue. It submitted the following:

- There was no employee, subcontract, employment, agency or representation relationship between IBM and ASC at the time the solicitation was developed and issued.
- ASC did not prepare the solicitation at issue nor did it evaluate bidders’ proposals.
- No ASC employee, contractor or consultant was involved in any way with the preparation of IBM’s proposal.
- During the course of the solicitation and the evaluation process, there were no communications between IBM and ASC with respect to this solicitation.
- There is no evidence of any advantage or benefit, real or perceived, to IBM.

31. According to IBM, even CGI recognized that the discovery of additional facts may affect the issue of whether there is an apprehension of bias.¹² IBM submitted that the evidence, as interpreted by a reasonable and informed individual,¹³ does not show any reasonable apprehension of bias which would have affected the evaluation team’s ability to properly evaluate the proposals.

TRIBUNAL’S ANALYSIS

32. Subsection 30.14(1) of the *CITT Act* requires that, in conducting an inquiry, the Tribunal limit its considerations to the subject matter of the complaint. Furthermore, at the conclusion of the inquiry, the Tribunal must determine whether the complaint is valid on the basis of whether the procedures and other requirements prescribed in respect of the designated contract have been observed. Section 11 of the *Regulations* further provides that the Tribunal is required to determine whether the procurement was conducted in accordance with the applicable trade agreements, which, in this instance, are the *Agreement on Internal Trade*,¹⁴ the *North American Free Trade Agreement*¹⁵ and the *Agreement on Government Procurement*.¹⁶

11. *Bell Canada v. Canadian Telephone Employees Association*, [1978] 1 S.C.R. 369 at 394.

12. Complaint, para. 4.

13. *Supra* note 11.

14. 18 July 1994, C. Gaz. 1995.I.1323, online: Internal Trade Secretariat <http://www.intrasec.mb.ca/index_en/ait.htm> [AIT].

15. *North American Free Trade Agreement Between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America*, 17 December 1992, 1994 Can. T.S. No. 2 (entered into force 1 January 1994) [NAFTA].

16. 15 April 1994, online: World Trade Organization <http://www.wto.org/english/docs_e/legal_e/final_e.htm> [AGP].

33. Article 501 of the *AIT* reads as follows:

... the purpose of this Chapter is to establish a framework that will ensure equal access to procurement for all Canadian suppliers in order to contribute to a reduction in purchasing costs and the development of a strong economy in a context of transparency and efficiency.

34. Article 504 of the *AIT* reads as follows:

...

2. With respect to the Federal Government, paragraph 1 means that, subject to Article 404 (Legitimate Objectives), it shall not discriminate:

- (a) between the goods or services of a particular Province or region, including those goods and services included in construction contracts, and those of any other Province or region; or
- (b) between the suppliers of such goods or services of a particular Province or region and those of any other Province or region.

...

35. Article 1008 of *NAFTA* reads as follows:

1. Each Party shall ensure that the tendering procedures of its entities are:

- (a) applied in a nondiscriminatory manner

36. Article VII of the *AGP* reads as follows:

1. Each Party shall ensure that the tendering procedures of its entities are applied in a non-discriminatory manner

37. It is in the context of the above applicable provisions that the Tribunal will examine CGI's allegations of reasonable apprehension of bias.

38. In *Cougar Aviation Ltd. v. Canada*,¹⁷ the Federal Court of Appeal found that, under the *AIT*, the Tribunal's jurisdiction in respect of actual bias also included the consideration of allegations of reasonable apprehension of bias. The test applied by the Tribunal in order to determine if the circumstances of this case give rise to a reasonable apprehension of bias is the one set out by de Grandpré, J. in his dissenting opinion in *Committee for Justice and Liberty v. National Energy Board*, as affirmed by the Supreme Court of Canada in *Bell Canada v. Canadian Telephone Employees Association*,¹⁸ which reads as follows:

[W]hat would an informed person, viewing the matter realistically and practically - and having thought the matter through - conclude? Would he think that it is more likely than not that [the individual], whether consciously or unconsciously, would not decide fairly?¹⁹

39. In applying the "informed person" test to the fact of this case, the Tribunal considers that it should examine the following two issues: (a) the possibility that ASC could have influenced the evaluation committee in relation to the outcome of the evaluation process; and (b) if such possibility exists, the likelihood, in light of the evidence that was presented, that ASC did indeed influence the evaluation committee in relation to the outcome of the evaluation process.

17. *Cougar Aviation (Minister of Public Works and Government Services)* (28 November 2000), A-421-99 (F.C.A.).

18. 2003 SCC 36.

19. *Supra* note 11.

40. However, before addressing these two issues, the Tribunal must turn its mind to the quotation from ASC's Web site that identified IBM as one of ASC's affiliates. In its complaint, CGI indicated that it does not know what business relationship ASC has with IBM. On this matter, the affidavit of Mr. Robert Garth Wallace, Client Solutions Executive, Public Sector, IBM Canada Limited, indicates that, although IBM was in the past a licensee and user of ASC's TF!, this relationship ended in November 2004, prior to the issuance of the RFP for DMS. His affidavit also states that two of IBM's personnel received training in the use of ASC's TF! during the proposal preparation stage, as was permitted by PWGSC in the RFP, and that no ASC employee, contractor or consultant was involved in any way with the preparation of IBM's proposal.

41. PWGSC stated that the reference to IBM as an "affiliate" on ASC's Web site referred to "... the fact that in the past, IBM has supported ASC Group products, meaning that IBM personnel have been trained and certified to assist and support the products and tools produced by ASC Group..." The Tribunal is left with no other explanations and notes that, apart from a business relationship that existed until November 2004, there is no evidence that would indicate that another kind of relationship existed between ASC and IBM. Accordingly, the reference by ASC that IBM was an "affiliate" must be understood in this context.

(a) The possibility that ASC could have influenced the evaluation committee in relation to the outcome of the evaluation process

42. CGI argued that ASC, as a member of the technical assessment group, played an integral role in establishing the evaluation criteria in the SOW and in evaluating the bidders' proposals. PWGSC argued that ASC's involvement was limited to providing technical support to PWGSC and DND procurement officials relating to the use of TF! and that ASC personnel assisted in the preparation of the LOI and RFP only to ensure that these documents were properly worded, formatted and organized for use with the technical requirements of TF!.

43. The Tribunal notes that ASC's role, as described in the Assessment Directive of the DMS Phase 2,²⁰ is to "... facilitate the use of TF! methodology, to provide advice on TF! methodology to all members of the Technical Assessment Group and to prepare comparative analysis spreadsheets..." In the Tribunal's view, it is clear from the evidence on the record that ASC's role in the evaluation process was limited to providing technical support to the evaluation team with respect to the use of TF!, and that fact had been clearly disclosed to all bidders in both the LOI and RFP. An example of that limited role is set out in the answer to part of Question 238, which relates to the removal of financial information submitted by bidders, and not provided to the technical evaluation team, and the specific details of the process that would be used to sever such financial information from the data submitted in TF! and which reads as follows:

Upon receipt of the initial partial bid, the PWGSC Contracting Authority shall make a copy of the Bidder's original electronic copy of Volume IB – Tabular Format © Worksheets. Under the supervision of the PWGSC Contracting Authority and on Crown-owned equipment, *an ASC member removes the financial information contained in the blue cells of the worksheets from the copy made by PWGSC.* The technical evaluation team is then provided with the copy containing no financial information contained in the blue cells of the worksheets.²¹

...

[Emphasis added]

20. Complaint, tab 3.

21. GIR, Exhibit 6.

44. The Tribunal accepts PWGSC's submission regarding the possibility that ASC had any direct influence within the boundaries placed around its role. ASC's role was confined to ensuring proper integration of the TF! methodology into the procurement process and not the establishment of the terms of the RFP, the evaluation criteria or the actual evaluation of the proposals. However, the Tribunal cannot conclude that there was no possibility that ASC could have influenced the outcome of the evaluation.

(b) The likelihood that ASC did indeed influence the evaluation committee in relation to the outcome of the evaluation process

45. Having determined that ASC could theoretically have influenced the evaluation committee in relation to the outcome of the evaluation process, the Tribunal must turn its mind to examining the evidence to determine the likelihood that ASC acted upon this opportunity. In this regard, the Tribunal finds no evidence to suggest that ASC's role in this solicitation supports a determination of a likelihood that it did influence the evaluation committee and, thus, the outcome of the process. For example, had the Tribunal been presented with some evidence that ASC personnel did evaluate the proposals, that ASC's advice was taken into account during the evaluation of the proposals in determining if a bidder met some mandatory requirements, that ASC personnel had passed information to a bidder or that PWGSC had failed to ensure that the procurement was conducted properly, then its determination might have been different. It could find no evidence to suggest that the SOW, the evaluation criteria or the actual evaluation of the proposals was compromised through the inclusion of ASC personnel in the procurement process. It notes that there was also no evidence to suggest that IBM and ASC had inappropriately been in contact during the solicitation period. The Tribunal also considers that PWGSC acted appropriately to ensure a fair and transparent solicitation: it informed bidders of ASC's involvement, it required that ASC sign a nondisclosure agreement, and it investigated CGI's objection promptly.

46. In light of the above discussion, the Tribunal cannot conclude that an informed person, knowing all the facts of this case, would have found that the technical assessment group would not have decided fairly. It cannot therefore conclude that a reasonable apprehension of bias existed in violation of the provisions listed earlier in this decision.

47. The Tribunal finds that the complaint is not valid.

Costs

48. In accordance with the Tribunal's *Guideline for Fixing Costs in Procurement Complaint Proceedings (Guideline)*, the Tribunal awards PWGSC its reasonable costs incurred in responding to the complaint.

49. The *Guideline* contemplates classification of the level of complexity of complaint cases based on three criteria: the complexity of the procurement; the complexity of the complaint; and the complexity of the complaint proceedings. The complexity of the procurement was medium, in that it involved a defined service project on an "as required" basis. The complexity of the complaint was low, in that it dealt with a single issue. Finally, the complexity of the complaint proceedings was low, as there was one intervener, the parties were not required to submit information beyond the normal scope of proceedings, there was no need for a public hearing, and the 90-day time frame was respected. Accordingly, the Tribunal is of the preliminary view that this complaint case has an overall complexity level corresponding to the lowest level of complexity referred to in Appendix A of the *Guideline* (Level 1). As contemplated by the *Guideline*, the Tribunal's preliminary indication of the amount of the cost award is \$1,000. The Tribunal reserves jurisdiction to establish the final amount of the award.

DETERMINATION OF THE TRIBUNAL

50. Pursuant to subsection 30.14(2) of the *CITT Act*, the Tribunal determines that the complaint is not valid.

51. Pursuant to section 30.16 of the *CITT Act*, the Tribunal awards PWGSC its reasonable costs incurred in responding to the complaint, which costs are to be paid by CGI. The Tribunal's preliminary indication of the level of complexity for this complaint case is Level 1, and its preliminary indication of the amount of the cost award is \$1,000. If any party disagrees with the preliminary indication of the level of complexity or the preliminary indication of the amount of the cost award, it may make submissions to the Tribunal, as contemplated by the *Guideline*. The Tribunal reserves jurisdiction to establish the final amount of the award.

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