



BY FACSIMILE

July 18, 2006

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Subject: Solicitation No. W8486-069561/A
Marathon Management Company (File No. PR-2006-018)

The Canadian International Trade Tribunal (the Tribunal) (Meriel V. M. Bradford, Presiding Member) has reviewed the complaint submitted by Marathon Management Company (Marathon) on July 12, 2006, and has decided not to initiate an inquiry into the complaint.

Marathon alleges that: preferential treatment was given to the winning bidder due to the fact that it was the previous supplier; the Department of Public Works and Government Services (PWGSC) awarded the contract for Item 1 (NSN: 8465-21-896-8280 Snap Link, Mountain Piton, Steel), to a bidder that submitted a higher bid; its own bid was wrongly rejected as non-responsive even though according to its manufacturer its sample met the requirements; and it was not provided with the individual prices of the contract, only the total contract price.

The goods covered by this procurement fall under NATO stock numbers 8465-21-896-8280 and 8242, which are under Federal Supply Classification (FSC) code 84. Only the *Agreement on Internal Trade* (AIT) applies to procurements for goods under FSC code 84. Paragraph 7(1)(c) of the *Canadian International Trade Tribunal Procurement Inquiry Regulations* requires that the Tribunal determine whether the information provided by the complainant discloses a reasonable indication that the procurement has not been carried out in accordance with the applicable provisions of the AIT, which is Chapter Five.

With respect to Marathon's allegation of preferential treatment, the Tribunal finds that there is insufficient evidence in the complaint to substantiate the claim. Accordingly, for this ground of complaint, there is no reasonable indication that the procurement has not been carried out in accordance with the AIT.

Concerning Marathon's allegation that PWGSC awarded the contract to a bidder that submitted a higher bid, the Tribunal finds that there is insufficient evidence in the complaint to substantiate the claim. Accordingly, for this ground of complaint, there is no reasonable indication that the procurement has not been carried out in accordance with the AIT.

With respect to Marathon's allegation that its bid was wrongly rejected as non-responsive, the Tribunal notes that the e-mail correspondence from PWGSC does not indicate that Marathon's bid was rejected as non-responsive, rather that a more favourable offer had been received. Therefore, for this ground of complaint, the Tribunal finds that there is no reasonable indication that the procurement has not been carried out in accordance with the AIT.

Concerning Marathon's allegation that it was not provided with the individual prices of the contract, but only the total contract price, the Tribunal notes that there is no requirement under the AIT for the procuring entity to provide unsuccessful bidders with the unit prices of any winning bid. Therefore, for this ground of complaint, the Tribunal finds that there is no reasonable indication that the procurement has not been carried out in accordance with the applicable trade agreement.

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