



BY FACSIMILE

November 1, 2006

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Subject: Solicitation No. W0105-06E067/A
Ready John Inc. (File No. PR-2006-030)

The Canadian International Trade Tribunal (the Tribunal) (Ellen Fry, Presiding Member) has reviewed the complaint submitted on behalf of Ready John Inc. (Ready John), received on October 26, 2006, and has decided not to initiate an inquiry into the complaint.

Ready John alleged that the Department of Public Works and Government Services (PWGSC) awarded a standing offer to a non-compliant bidder, Hoyt's Septic Services Ltd. (Hoyt). Specifically, Ready John alleged that Hoyt does not have 250 units (portable toilets) available to it at all times, as required, in its view, by clause 17.1.1 of the Request for a Standing Offer (RFSO).

Subsection 6(2) of the *Canadian International Trade Tribunal Procurement Inquiry Regulations* (the *Regulations*) specifies that a potential supplier who has made an objection to the relevant government institution, and is denied relief by that government institution, may file a complaint with the Tribunal "within 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."

On August 25, 2006, Ready John raised concerns with PWGSC regarding whether or not Hoyt met the requirements of the RFSO concerning the availability of 250 units and requested that PWGSC review the tender award decision. On August 30, 2006, PWGSC advised Ready John that it had confirmed that Hoyt met the requirements of the RFSO. On October 5, 2006, Ready John again raised this concern with PWGSC, and its concern was again rejected by PWGSC on October 16, 2006.

The Tribunal is of the view that Ready John received its denial of relief on August 30, 2006, when it was informed by PWGSC that Hoyt has available to it the number of units required to satisfy the requirements of the RFSO. In order to be considered timely, a complaint would have had to have been filed with the Tribunal within 10 working days of August 30, 2006, i.e. no later than September 14, 2006. Ready John filed its complaint with the Tribunal on October 26, 2006. Consequently, the Tribunal finds that the complaint was filed beyond the time limit established by subsection 6(2) of the *Regulations*. Accordingly, the complaint is out of time and cannot be accepted for inquiry.

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