



BY FACSIMILE

March 7, 2007

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Re: Solicitation Number 0D160-064876/A
Quallium Corporation (File No. PR-2006-047)

The Canadian International Trade Tribunal (the Tribunal) (Zdenek Kvarda, Presiding Member) has reviewed the complaint submitted on behalf of Quallium Corporation (Quallium) on February 27, 2007, and has decided not to initiate an inquiry into the complaint.

Quallium alleged that the Department of Public Works and Government Services (PWGSC) improperly evaluated its proposal by using means not disclosed to bidders in the Request for Proposal (RFP). Quallium specifically argued that PWGSC had not properly considered its proposed resource's experience as meeting the requirements of rated criteria R2 and R6 in the above-noted solicitation.

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 whichever of Chapter Ten of the *North American Free Trade Agreement (NAFTA)*, Chapter Five of the *Agreement on Internal Trade (AIT)* or the *Agreement on Government Procurement* applies. In this case, the *AIT* and *NAFTA* apply.

The Tribunal has previously determined, for example, in *Vita-Tech Laboratories Ltd.* (PR-2005-019), that it "will not substitute its judgment for that of the evaluators unless the evaluators have not applied themselves in evaluating a bidder's proposal, have ignored vital information provided in a bid, have wrongly interpreted the scope of a requirement, have based their evaluation on undisclosed criteria or have otherwise not conducted the evaluation in a procedurally fair way."

The Tribunal considers that the RFP adequately informed bidders of the information that was required to demonstrate compliance with the criteria in question, including describing the format that it sought regarding proof of the experience (Section D.2(e) at page 62 of the RFP - "Proposals must provide supporting information consisting of a detailed résumé that clearly describes the degree and nature of the knowledge and experience possessed by the proposed resource" and section D.2(b) at page 62 - "indicate 'from and to' date for work and experience and projects"). The Tribunal finds that the evidence provided in the complaint does not indicate that PWGSC failed to properly apply the rated criteria when evaluating Quallium's proposal nor does it indicate that PWGSC ignored vital information contained in the bid.

Quallium also alleged that it sufficiently demonstrated its proposed resource's compliance with the "biometrics" experience requirement by providing its experience in "forensics". Regarding Quallium's understanding of the scope of these fields, the Tribunal finds that the tender documentation was clear with respect to the requirements that had to be demonstrated and that there was an onus on the bidder, as indicated at Annex D to the RFP (see D.2 at page 62), to ensure that its proposal was clear with respect to the explicit experience that had to be given for the resource being proposed.

Accordingly, the Tribunal determines that the complaint does not disclose a reasonable indication that the procurement has not been carried out in accordance with the applicable trade agreements. In light of the foregoing, the Tribunal will not conduct an inquiry into the complaint and considers the matter closed.

Yours sincerely,

Susanne Grimes
Acting Secretary