



**BY FACSIMILE**

April 26, 2007

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Re: Solicitation No. SRBC.SN-06-01  
ArchiDATA Inc. (File No. PR-2007-005)

The Canadian International Trade Tribunal (the Tribunal) (Presiding Member: Pierre Gosselin) has reviewed the complaint submitted on behalf of ArchiDATA Inc. (ArchiDATA) on April 11, 2007, and has decided not to initiate an inquiry into the complaint.

ArchiDATA alleged that the Department of Foreign Affairs and International Trade (DFAIT) incorrectly awarded a contract to a non-qualified competitor—InCAD Software Technologies Corporation (InCAD).

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* or the *Agreement on Government Procurement* applies. In this case, only *NAFTA* applies.

According to the complaint, DFAIT awarded the contract to InCAD, a company that does not have a product that meets the requirements of Solicitation No. SRBC.SN-06-01, more particularly, the requirement to provide a “French and English off-the-shelf web-based software application for a Database Engine and File Manager for Architecture and Design Services”. ArchiDATA further alleged that InCAD would now have access to ArchiDATA’s “product description, framework and product specifications”. Finally, ArchiDATA alleged that DFAIT did not inform it of the contract award in a timely manner.

The Tribunal does not know which product InCAD proposed, nor did ArchiDATA provide information regarding that product. The Tribunal notes that ArchiDATA’s allegations are based merely on “public knowledge” and that it failed to substantiate or provide evidence that the product proposed by InCAD does not meet the requirements of the Statement of Work. The information regarding this issue contradicts ArchiDATA’s allegations. Indeed, in attachment “M” to the complaint, DFAIT stated that “the Evaluation team . . . confirmed with each of the proponents that their proposed applications met the requirements within the Statement of Work.” No sufficient evidence was presented in order for the Tribunal not to defer to DFAIT on that specific question. Regarding ArchiDATA’s complaint that it was not

informed of the contract award in a timely manner, *NAFTA* allows contracting entities up to 72 days after contract award to publish a notice regarding the contract award. The Tribunal is therefore of the opinion that, regarding these two grounds of complaint, ArchiDATA's complaint does not demonstrate a reasonable indication that the procurement was not conducted in accordance with *NAFTA*.

Regarding InCAD's alleged access to ArchiDATA's "product description, framework and product specifications", the Tribunal could find no indication or evidence to support ArchiDATA's allegation that InCAD would gain access to any of ArchiDATA's information. That being said, even if this were true, the Tribunal is of the opinion that this does not indicate that DFAIT has violated the procurement provisions of the trade agreements.

In light of the foregoing, the Tribunal will not conduct an inquiry into the complaint and considers the matter closed.

Yours sincerely,

Hélène Nadeau  
Secretary