



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Procurement

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## DECISION AND REASONS

File No. PR-2010-060

PricewaterhouseCoopers LLP

*Decision made  
Friday, September 10, 2010*

*Decision and reasons issued  
Wednesday, September 15, 2010*

IN THE MATTER OF a complaint filed pursuant to subsection 30.11(1) of the *Canadian International Trade Tribunal Act*, R.S.C. 1985 (4th Supp.), c. 47

**BY**

**PRICEWATERHOUSECOOPERS LLP**

**AGAINST**

**THE CANADIAN INTERNATIONAL DEVELOPMENT AGENCY**

**DECISION**

Pursuant to subsection 30.13(1) of the *Canadian International Trade Tribunal Act*, the Canadian International Trade Tribunal has decided not to conduct an inquiry into the complaint.

Stephen A. Leach  
Stephen A. Leach  
Presiding Member

Dominique Laporte  
Dominique Laporte  
Secretary

## STATEMENT OF REASONS

1. Subsection 30.11(1) of the *Canadian International Trade Tribunal Act*<sup>1</sup> provides that, subject to the *Canadian International Trade Tribunal Procurement Inquiry Regulations*,<sup>2</sup> a potential supplier may file a complaint with the Canadian International Trade Tribunal (the Tribunal) concerning any aspect of the procurement process that relates to a designated contract and request the Tribunal to conduct an inquiry into the complaint. Subsection 30.13(1) of the *CITT Act* provides that, subject to the *Regulations*, after the Tribunal determines that a complaint complies with subsection 30.11(2) of the *CITT Act*, it shall decide whether to conduct an inquiry into the complaint.

2. The complaint relates to a procurement (Solicitation No. ZBD-2009-1017-MV/A) by the Canadian International Development Agency (CIDA) for the provision of forensic audits and special investigation services.

3. PricewaterhouseCoopers LLP (PWC) alleged that CIDA improperly used a restrictive mandatory criterion which prevented it from submitting a proposal, specifically, that certain resources were to have a forensic accounting designation recognized only in Canada (CA•IFA)<sup>3</sup> rather than the internationally recognized forensic designation (CFE).<sup>4</sup>

4. On July 29, 2010, CIDA issued a Request for Proposal (RFP) for forensic audits and special investigation services. On August 6, 2010, PWC requested that CIDA remove the excessive requirement in mandatory criterion MT3. On August 10, 2010, CIDA issued amendment No. 001 to the RFP, which advised bidders that it would not change the requirement in mandatory criterion MT3. On August 19, 2010, PWC made an objection to CIDA regarding its refusal to change mandatory criterion MT3. That same day, CIDA issued amendment No. 002 to the RFP, which advised bidders that mandatory criterion MT3 would not change. On September 3, 2010, bids closed. That same day, PWC filed its complaint with the Tribunal.

5. Subsection 6(1) of the *Regulations* provides that a complaint shall be filed with the Tribunal “. . . not later than 10 working days after the day on which the basis of the complaint became known or reasonably should have become known to the potential supplier.”

6. Subsection 6(2) of the *Regulations* states 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.”

7. In other words, a complainant has 10 working days from the date on which it first becomes aware, or reasonably should have become aware, of its ground of complaint to either object to the government institution or file a complaint with the Tribunal. If a complainant objects to the government institution within the designated time, the complainant may file a complaint with the Tribunal within 10 working days after it has actual or constructive knowledge of the denial of relief by the government institution.

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

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

3. CA-designated specialist in investigative and forensic accounting.

4. Certified fraud examiner.

8. Under subsection 6(2) of the *Regulations*, in order to be timely, the complaint should have been filed with the Tribunal within 10 working days after the day on which PWC had actual or constructive knowledge of the denial of relief. According to the complaint, PWC made an objection to CIDA on August 19, 2010. CIDA responded to that objection on the same day with the issuance of amendment No. 002 to the RFP. The Tribunal therefore considers that PWC had actual knowledge of the denial of relief on August 19, 2010. Ten working days after that date is September 2, 2010. The complaint was filed on September 3, 2010.

9. The Tribunal therefore finds that the complaint has not been filed within the time limit prescribed by subsection 6(2) of the *Regulations*.

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

### **DECISION**

11. Pursuant to subsection 30.13(1) of the *CITT Act*, the Tribunal has decided not to conduct an inquiry into the complaint.

Stephen A. Leach  
Stephen A. Leach  
Presiding Member