



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Procurement

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## DECISION AND REASONS

File No. PR-2012-004

The Corporate Research Group Ltd.

*Decision made  
Thursday, May 10, 2012*

*Decision and reasons issued  
Tuesday, May 15, 2012*

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**

**THE CORPORATE RESEARCH GROUP LTD.**

**AGAINST**

**THE DEPARTMENT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE**

**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.

Serge Fréchette  
Serge Fréchette  
Presiding Member

Gillian Burnett  
Gillian Burnett  
Acting 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. ARD-NCR-SVCS-11187) by the Department of Foreign Affairs and International Trade (DFAIT) for the provision of management consulting services to support DFAIT's Physical Resources Bureau in the preparation of, and quality improvements to, Treasury Board submissions, as well as the provision of analysis and recommendations for improvements to the associated business processes.

3. According to the complaint, The Corporate Research Group Ltd. (CRG) alleges that its proposal was not fairly evaluated in accordance with the stated requirements of the Request for Proposals (RFP) and that DFAIT failed to conduct a fair and unbiased procurement by delaying the requested re-evaluation of CRG's proposal and by withholding the supporting documentation of the original evaluation. CRG contends that any subsequent contract award should have been delayed pending a proper and timely contract debriefing, and an opportunity for CRG to request a re-evaluation of its technical proposal.

4. 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." Subsection 6(2) provides that a potential supplier that 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."

5. 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. Where 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.

6. The Tribunal notes that, by way of its e-mails dated April 4 and 25, 2012, DFAIT has undertaken to conduct a re-evaluation of CRG's proposal and to forward the results of the re-evaluation to CRG. To date, CRG has not received the results of DFAIT's re-evaluation. As a result, the Tribunal finds that CRG has not yet received a denial of relief, as contemplated by subsection 6(2) of the *Regulations*, and that this ground of complaint is therefore premature. The Tribunal's decision, at this time, does not preclude any future complaint by CRG on this ground once DFAIT has responded to its objection or if it fails to do so within a reasonable period of time, which, in the Tribunal's opinion, would be by May 30, 2012.

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

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

7. If CRG wishes to file a new complaint once it has received the results of the re-evaluation, it must do so within 10 working days after it receives *actual* denial of relief by DFAIT. However, if its objection is not addressed by May 30, 2012, CRG should assume denial of relief and, in that circumstance, any complaint must be filed within 10 working days of that date, i.e. by June 13, 2012. In either circumstance, CRG may request that the documentation already filed with the Tribunal be joined to the new complaint.

## **DECISION**

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

Serge Fréchette  
Serge Fréchette  
Presiding Member