



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Procurement

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## DETERMINATION AND REASONS

File No. PR-2012-012

Samson & Associates

v.

Department of Public Works and  
Government Services

*Determination and reasons issued  
Friday, October 19, 2012*

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

AND FURTHER TO a decision to conduct an inquiry into the complaint pursuant to subsection 30.13(1) of the *Canadian International Trade Tribunal Act*.

**BETWEEN**

**SAMSON & ASSOCIATES**

**Complainant**

**AND**

**THE DEPARTMENT OF PUBLIC WORKS AND GOVERNMENT  
SERVICES**

**Government  
Institution**

**DETERMINATION**

Pursuant to subsection 30.14(2) of the *Canadian International Trade Tribunal Act*, the Canadian International Trade Tribunal determines that the complaint is not valid.

Pursuant to section 30.16 of the *Canadian International Trade Tribunal Act*, the Canadian International Trade Tribunal awards the Department of Public Works and Government Services its reasonable costs incurred in responding to the complaint, which costs are to be paid by Samson & Associates. In accordance with the *Guideline for Fixing Costs in Procurement Complaint Proceedings*, the Canadian International Trade Tribunal's preliminary indication of the level of complexity for this complaint case is Level 1, and its preliminary indication of the amount of the cost award is \$1,000. If any party disagrees with the preliminary indication of the level of complexity or the preliminary indication of the amount of the cost award, it may make submissions to the Canadian International Trade Tribunal, as contemplated in article 4.2 of the *Guideline for Fixing Costs in Procurement Complaint Proceedings*. The Canadian International Trade Tribunal reserves jurisdiction to establish the final amount of the award.

Stephen A. Leach

Stephen A. Leach  
Presiding Member

Dominique Laporte

Dominique Laporte  
Secretary

Tribunal Member: Stephen A. Leach, Presiding Member

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## STATEMENT OF REASONS

### COMPLAINT

1. On July 27, 2012, Samson & Associates (Samson) filed a complaint with the Canadian International Trade Tribunal (the Tribunal) pursuant to subsection 30.11(1) of the *Canadian International Trade Tribunal Act*<sup>1</sup> concerning a procurement (Solicitation No. A0015-11-0040/A) by the Department of Public Works and Government Services (PWGSC), on behalf of the Department of Indian Affairs and Northern Development, for the provision of internal audit and information technology and systems audit services.

2. Samson alleged that its proposal was improperly evaluated and declared non-compliant. More specifically, Samson alleged that PWGSC improperly determined that one of its proposed resources did not meet the minimum mandatory requirement set out in the solicitation documents relating to audit experience. As a remedy, Samson requested the re-evaluation of its proposal in accordance with the criteria set out in the Request for Proposal (RFP) as well as the postponement of the contract awards. In the alternative, Samson requested that it be compensated for the costs that it incurred in preparing its proposal and bringing the complaint before the Tribunal.

3. On August 7, 2012, the Tribunal informed the parties that the complaint had been accepted for inquiry, as it met the requirements of subsection 30.11(2) of the *CITT Act* and the conditions set out in subsection 7(1) of the *Canadian International Trade Tribunal Procurement Inquiry Regulations*.<sup>2</sup> The Tribunal also advised the parties that it would not order the postponement of the contract awards because the evidence on the record indicated that the contracts had already been awarded.

4. On August 10, 2012, PWGSC acknowledged receipt of the complaint and informed the Tribunal that PricewaterhouseCoopers LLP, Deloitte & Touche LLP (Deloitte), KPMG LLP, Orbis Risk Consulting Inc. and Ernst & Young LLP had each been awarded a contract. On August 15, 2012, Deloitte requested leave to intervene in these proceedings. On August 21, 2012, the Tribunal granted intervener status to Deloitte.

5. On September 4, 2012, PWGSC filed a Government Institution Report (GIR) with the Tribunal in accordance with rule 103 of the *Canadian International Trade Tribunal Rules*.<sup>3</sup> On September 10, 2012, Samson filed its comments on the GIR. No submissions were received from Deloitte.

6. Given that there was sufficient information on the record to determine the validity of the complaint, the Tribunal decided that an oral hearing was not required and disposed of the complaint on the basis of the written information on the record.

### PROCUREMENT PROCESS

7. On February 21, 2012, PWGSC issued an RFP to pre-qualified suppliers under the Professional Audit Support Services (PASS) Supply Arrangement. PWGSC was seeking to establish up to five contracts for the provision of internal audit and information technology and systems audit services.

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

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

3. S.O.R./91-499.

8. The relevant provisions of the RFP are as follows:

**PART 4 – EVALUATION PROCEDURES AND BASIS OF SELECTION**

**1. Evaluation Procedures**

(a) Bids will be assessed in accordance with the entire requirement of the bid solicitation including the technical evaluation criteria.

...

**1.1 Technical Evaluation**

**1.1.1 Mandatory Technical Criteria**

Refer to Attachment 1 to Part 4.

...

**2.1 Basis of Selection – Lowest Evaluated Price Per Point**

1. To be declared responsive, a bid must:

- (a) comply with all the requirements of the bid solicitation;
- (b) meet all the mandatory evaluation criteria; and
- (c) obtain the required minimum number of points specified in Attachment 1 to Part 4 for the point rated technical criteria.

2. Bids not meeting (a) or (b) or (c) will be declared non-responsive. Neither the responsive bid obtaining the highest number of points nor the one with the lowest evaluated price will necessarily be accepted.

...

**ATTACHMENT 1 to PART 4**

**TECHNICAL CRITERIA**

**1.1.1 Mandatory Technical Criteria**

The bid must meet the mandatory technical criteria specified below. The Bidder must provide the necessary documentation to support compliance with this requirement.

Bids which fail to meet the mandatory technical criteria will be declared non-responsive. Each mandatory technical criterion should be addressed separately.

<b>Mandatory Technical Criteria (MT) for workstream one (1)</b>				
“Bidder” means the person or entity (or, in the case of a joint venture, the persons or entities) submitting a bid to perform a contract for goods, services or both. It does not include the parent, subsidiaries or other affiliates of the Bidder, or its subcontractors.				
<b>The Bidder</b>				
<b>Number</b>	<b>Mandatory Technical Criterion</b>	<b>MET</b>	<b>NOT MET</b>	<b>Cross Reference to Proposal</b>
<b>MT1</b>	<p><b>For work-stream # one (1):</b> The Bidder must propose a team comprised at minimum of the following;</p> <ul style="list-style-type: none"> <li>• one (1) Partner/Managing Director</li> <li>• one (1) Project Manager Leader</li> <li>• one (1) Senior Auditor</li> <li>• one (1) Auditor</li> </ul>			

	<p>Note:</p> <ul style="list-style-type: none"> <li>• If the number of <b>qualified</b> individuals falls below the minimum required as per this mandatory technical Criterion MT1, the bidder’s proposal will be declared non-responsive and rejected; and</li> <li>• A resource cannot be proposed for more than one resource category in the applicable workstream for which they are submitting a bid.</li> </ul>			
...				
<b>The Bidder’s Proposed Resources</b>				
<b>Number</b>	<b>Mandatory Technical Criterion</b>	<b>MET</b>	<b>NOT MET</b>	<b>Cross Reference to Proposal</b>
<b>MT4</b>	<p><b>For work-stream # one (1):</b>                      The Bidder must submit detailed CVs for each of the proposed resources demonstrating that they meet the minimum mandatory requirements (educational, professional designations and work experience) for each applicable resource category as described in <u>Annex A, Statement of Work, Section 5.</u></p>			

**ANNEX A**

**STATEMENT OF WORK**

...

**5.0 SCOPE OF SERVICES**

...

**5.1 Work-stream 1: Internal Audit Services**

...

**Minimum Mandatory Qualifications and Experience for the Resource Categories:**

The following are the minimum mandatory requirements that must be met by the Contractor’s personnel identified under each applicable resource category for work to be performed under this work-stream. . . .

...

**PROJECT MANAGER/LEADER**

- Education/Professional Qualifications
  - Professional Designation in any one of the following: CA, or CMA, or CGA, or CIA.
- Experience

- Must have a minimum of six (6) cumulative years experience of audit experience within the last ten (10) years including at least two (2) cumulative years experience in internal audit.

9. During the procurement process, PWGSC responded to a number of questions from bidders. None of the questions or responses related to Samson's ground of complaint. The due date for the receipt of bids, originally set for March 12, 2012, was extended to March 19, 2012. According to PWGSC, 11 bids were received, including one from Samson.

10. On July 18, 2012, PWGSC advised Samson that its proposal did not comply with mandatory technical criterion MT1 and, therefore, its proposal was deemed non-compliant. More specifically, it informed Samson that one of its proposed resources for Project Manager/Leader only demonstrated 69 months of audit experience when 72 months (i.e. six years) were required. In the same correspondence, PWGSC indicated that five contracts had been awarded.<sup>4</sup>

11. On July 18, 2012, Samson made an objection by e-mail to PWGSC. On July 19, 2012, PWGSC replied that the proposed resource did not demonstrate clearly the required six years of audit experience in the last 10 years, including at least two years in internal audit. That same day, Samson wrote to PWGSC stating its disagreement and requesting that PWGSC review its decision.

12. On July 27, 2012, Samson filed its complaint with the Tribunal. On July 30, 2012, Samson filed a paper copy of its complaint including additional documents.

## **POSITIONS OF THE PARTIES**

### **Samson**

13. Samson submitted that its proposal was improperly declared non-compliant and that the proposed resource's résumé clearly detailed his audit experience, including eight years as Director of Corporate Audit with a government agency (with six of those eight years being within the past 10 years). Samson submitted that PWGSC failed to consider the proposed resource's entire résumé when assessing his experience, and instead focused only on the proposed resource's detailed project experience. It submitted that the RFP did not stipulate that experience be demonstrated on a project-by-project basis. In Samson's view, when read in its entirety, the proposed resource's résumé demonstrated over eight years of audit experience in the past 10 years, all considered internal audit.

14. In particular, Samson submitted that the career history found on page 2 of the proposed resource's résumé indicated that he had been Director of Corporate Audit from 2000 to 2008 (with six of these years being within the past 10 years). In addition, the statement found on page 1 of the resource's résumé indicated that, "[a]s Director, Corporate Audit, [the proposed resource] was instrumental in establishing and leading the internal audit organization in a major federal government Agency. During his tenure he completed numerous audits that resulted in improving the existing management practices within the Agency."<sup>5</sup> Samson also pointed to the list of relevant project experience (starting at page 3 of the résumé) as evidence that the resource had at least two cumulative years of experience in internal audits.

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4. PWGSC also determined that a second proposed resource at the Project Manager/Leader level did not meet the minimum mandatory requirements. However, Samson is not contesting this determination.

5. Complaint at 6-7 and Appendix B-3; Comments on the GIR at 4.



15. In its comments on the GIR, Samson argued that the RFP does not specify how audit experience must be demonstrated. Samson submitted that the statement found on page 1 of the proposed resource's résumé indicates that, as Director of Corporate Audit, he established the internal audit organization, lead the internal audit organization and completed numerous audits.

16. Samson also questioned why the proposed resource's audit management role would not be considered audit experience, when part of a project manager/leader's responsibilities would logically include establishing an audit team structure, developing audit processes and leading the internal audit teams. Samson argued that PWGSC's position implies that only junior-level experience can be considered valid experience for the purposes of the RFP. Finally, Samson questioned why some part-time project experience was considered full-time experience (i.e. a 50-day project that spanned six months was treated as six months of experience) when at the same time PWGSC submitted that the proposed resource's experience should be discounted to account for the fact that not all of the tasks he performed as Director of Corporate Audit were specifically audit-related.

17. Samson further submitted that, over the past two years, its proposed resource was proposed as a project leader for other RFPs issued under the same supply arrangement (i.e. the PASS Supply Arrangement) with the same requirements and using the same résumé. According to Samson, in all of those cases, its proposed resource was considered having met this requirement.

## PWGSC

18. According to PWGSC, it based its disqualification of Samson's bid on the fact that the bid did not provide the necessary documentation to support compliance with mandatory technical criterion MT1 and, by extension, mandatory technical criterion MT4 and section 5.1 of the Statement of Work (SOW). PWGSC submitted that the statements provided on page 1 of the proposed resource's résumé did not contain any information with respect to the time frame within which he "gained extensive experience, as an audit manager . . ." <sup>6</sup> and that it would not have been reasonable for the evaluation team to assume that the experience was gained during the past 10 years.

19. PWGSC also submitted that the employment information found on page 2 of the résumé did not mention the specific work that the proposed resource performed from 2000 to 2008 when he was the Director of Corporate Audit. PWGSC argued that, in order for Samson's bid to be compliant on this point, the evaluators would have had to assume that all of the proposed resource's work as Director of Corporate Audit was attributable towards audit experience and that, without particulars as to the tasks that were performed, it was not open to the evaluation team to reach this conclusion. In support of this position, PWGSC noted that the proposed resource's role in "...establishing and leading the internal audit organization . . ." <sup>7</sup> demonstrated that the proposed resource was performing a management role over and above any audit work that was being done and that nothing on page 1 or 2 of his résumé demonstrated any specific audit experience (in contrast with the more specific experience listed under the detailed project experience section of his résumé). Finally, PWGSC submitted that the detailed project experience section of the résumé only demonstrated five years and nine months of experience, whereas six years were required.

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6. GIR, para. 8 at 12.

7. GIR, para. 9 at 12.

**TRIBUNAL'S ANALYSIS**

20. Subsection 30.14(1) of the *CITT Act* requires that, in conducting an inquiry, the Tribunal limit its considerations to the subject matter of the complaint. At the conclusion of the inquiry, the Tribunal must determine whether the complaint is valid on the basis of whether the procedures and other requirements prescribed in respect of the designated contract have been observed. Section 11 of the *Regulations* further provides that the Tribunal is required to determine whether the procurement was conducted in accordance with the applicable trade agreements, which, in this instance, are the *Agreement on Internal Trade*,<sup>8</sup> the *North American Free Trade Agreement*,<sup>9</sup> the *Agreement on Government Procurement*,<sup>10</sup> the *Canada-Chile Free Trade Agreement*,<sup>11</sup> the *Canada-Peru Free Trade Agreement*<sup>12</sup> and the *Canada-Colombia Free Trade Agreement*.<sup>13</sup>

21. Article 506(6) of the *AIT* provides that “[t]he tender documents shall clearly identify the requirements of the procurement, the criteria that will be used in the evaluation of bids and the methods of weighting and evaluating the criteria.”

22. Article 1015(4)(a) of *NAFTA* provides that, “to be considered for award, a tender must, at the time of opening, conform to the essential requirements of the notices or tender documentation and have been submitted by a supplier that complies with the conditions for participation”.

23. Article 1015(4)(d) of *NAFTA* further provides that “awards shall be made in accordance with the criteria and essential requirements specified in the tender documentation”.

24. The *AGP*, the *CCFTA*, the *CPFTA* and the *CCOFTA* contain provisions similar to those of *NAFTA* noted above.

25. In essence, the issue before the Tribunal is whether PWGSC failed to properly evaluate Samson's proposal by failing to assess some of its proposed resource's experience. The debate is whether, in view of the information included in Samson's bid, the evaluators should have found that Samson demonstrated that its proposed resource had at least six years of audit experience in the last 10 years, including at least two years of internal audit experience. The Tribunal notes that the RFP required bidders to provide the necessary documentation to support compliance with the mandatory technical criteria. The RFP also expressly

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8. July 18, 1994, C. Gaz. 1995.I.1323, on line: Internal Trade Secretariat <[http://www.ait-aci.ca/index\\_en/ait.htm](http://www.ait-aci.ca/index_en/ait.htm)> [*AIT*].

9. *North American Free Trade Agreement between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America*, 17 December 1992, 1994 Can. T.S. No. 2 (entered into force 1 January 1994) [*NAFTA*].

10. April 15, 1994, on line: World Trade Organization <[http://www.wto.org/english/docs\\_e/legal\\_e/final\\_e.htm](http://www.wto.org/english/docs_e/legal_e/final_e.htm)> [*AGP*].

11. *Free Trade Agreement between the Government of Canada and the Government of the Republic of Chile*, 1997 Can. T.S. No. 50 (entered into force 5 July 1997) [*CCFTA*]. Chapter *Kbis*, entitled “Government Procurement”, came into effect on September 5, 2008.

12. *Free Trade Agreement between Canada and the Republic of Peru*, online: Department of Foreign Affairs and International Trade <<http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/peru-perou/chapter-chapitre-14.aspx>> (entered into force 1 August 2009) [*CPFTA*].

13. *Free Trade Agreement between Canada and the Republic of Colombia*, online: Department of Foreign Affairs and International Trade <<http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/colombia-colombie/anc-colombia-toc-tdm-can-colombie.aspx>> (entered into force 15 August 2011) [*CCOFTA*].

required bidders to submit a detailed CV for each of the proposed resources demonstrating that they meet the minimum mandatory requirements.

26. Before turning to an examination of Samson's allegations, the Tribunal notes that it typically accords a large measure of deference to evaluators in their evaluation of proposals. In *Excel Human Resources Inc.*<sup>14</sup> the Tribunal confirmed that it "... will interfere only with an evaluation that is *unreasonable*' and will substitute its judgment for that of the evaluators '... only when 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.'"

27. In addition, in *BMT Fleet Technology Ltd. and Notra Inc.*, the Tribunal indicated that "PWGSC's determination will be considered reasonable if it is supported by a tenable explanation, regardless of whether or not the Tribunal itself finds that explanation compelling."<sup>15</sup>

28. It is also well established that there is an onus on bidders to demonstrate compliance with mandatory criteria.<sup>16</sup> The Tribunal has stated that the responsibility for ensuring that a proposal is compliant with all essential elements of a solicitation ultimately resides with the bidder. Accordingly, it is incumbent upon the bidder to exercise due diligence in the preparation of its proposal to make sure that it is compliant in all essential respects.<sup>17</sup>

29. It is in light of these principles that the Tribunal will assess whether PWGSC's evaluation of Samson's proposal complied with the requirements of the trade agreements.

30. With respect to mandatory technical criteria MT1 and MT4, and section 5.1 of the SOW, the information found on page 1 of the proposed resource's résumé in Samson's bid included the following statement:

As Director, Corporate Audit, [the proposed resource] was instrumental in establishing and leading the internal audit organization in a major federal government Agency. During his tenure he completed numerous audits that resulted in improving the existing management practices within the Agency.

31. The Tribunal notes that these two sentences do not provide specific details about the type of audit work that may have been done by the proposed resource. The Tribunal also notes that these two sentences do not refer to the years in which this experience was gained. As such, the Tribunal agrees with PWGSC that, in order for the evaluators to rely on this information as evidence that the proposed resource had the requisite amount of audit experience (being six cumulative years in the past 10 years), a number of assumptions would have to be made with respect to the nature of the work that was done and the period of time during which the experience was gained.

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14. *Re Complaint Filed by Excel Human Resources Inc.* (2 March 2012), PR-2011-043 (CITT) at para. 33.

15. *Re Complaint Filed by Joint Venture of BMT Fleet Technology Limited and Notra Inc.* (5 November 2008), PR-2008-023 (CITT) at para. 25; see also *Re Complaint Filed by Northern Lights Aerobatic Team, Inc.* (7 September 2005), PR-2005-004 (CITT).

16. For example, *Re Complaint Filed by Excel Human Resources Inc.* (2 March 2012), PR-2011-043 (CITT); *Re Complaint Filed by Info-Electronics H P Systems Inc.* (2 August 2006), PR-2006-012 (CITT).

17. *Re Complaint Filed by Integrated Procurement Technologies, Inc.* (14 April 2008), PR-2008-007 (CITT). In that case, the Tribunal also found that, while a procuring entity may in some circumstances seek clarification of a particular aspect of a proposal, it is not under any duty to do so.

32. Even if these two sentences relating to the proposed resource's role as Director of Corporate Audit were read in conjunction with page 2 of the proposed resource's résumé, which indicates that the position was held from 2000 to 2008, the Tribunal finds that the evaluators would still have had to rely on certain assumptions.

33. For example, there was very limited information provided with respect to the specific audit-related experience that the proposed resource gained in his role as Director of Corporate Audit, or the amount of time that he spent working in an audit function as opposed to a management function. This is especially evident when compared to the level of detail provided in the project experience section of the résumé (which also failed to establish six cumulative years of audit experience in the past 10 years).

34. Although each of the projects referred to in the project experience section of the résumé may not have involved full-time audit work, the Tribunal agrees that the level of detail provided on a project-by-project basis was sufficient for PWGSC to assess the proposed resource's audit experience and to conclude that a substantial amount of the proposed resource's time was devoted to audit-related work for the time periods referred to in that section.

35. However, the same level of detail was not provided when describing the proposed resource's audit experience as Director of Corporate Audit. Therefore, the Tribunal is of the view that the explanations provided by PWGSC in its submissions on this point were tenable and that it was reasonable for PWGSC not to make assumptions with respect to the audit experience gained by the proposed resource as Director of Corporate Audit.

36. The Tribunal finds that Samson could have included more information in its proposal to allow the evaluators to identify and assess the proposed resource's audit experience. For example, Samson could have provided additional detail with respect to the audit work performed by the proposed resource in his role as Director of Corporate Audit or, perhaps, Samson could have simply provided an estimate of the amount of time that the proposed resource devoted to audit work in this role. But, having not done this, the Tribunal finds it reasonable for PWGSC to have disqualified Samson's bid.

37. Samson also submitted that the proposed resource had been accepted as a project leader for other RFPs issued under the same supply arrangement with the same requirements and using the same résumé. In the Tribunal's view, Samson's argument is essentially that, because the proposed resource had been accepted for other RFPs, the decision not to accept the proposed resource in this instance was unreasonable. The Tribunal does not consider that the alleged acceptance of the proposed resource in other RFPs is sufficient to demonstrate that the decision of the evaluators was unreasonable in this case.

38. In sum, after having carefully examined the evidence before it, the Tribunal sees no reason to interfere with the judgment of the evaluators. While the Tribunal may have itself reached a different conclusion, it considers that PWGSC's evaluation of Samson's proposal was reasonable in the circumstances and did not contravene the relevant provisions of the trade agreements.

39. In light of the foregoing, the Tribunal finds that Samson's complaint is not valid.

#### **Costs**

40. The Tribunal awards PWGSC its reasonable costs incurred in responding to the complaint.

41. In determining the amount of the cost award for this complaint case, the Tribunal considered its *Guideline for Fixing Costs in Procurement Complaint Proceedings* (the *Guideline*), which contemplates classification of the level of complexity of cases on the basis of three criteria: the complexity of the procurement, the complexity of the complaint and the complexity of the complaint proceedings.

42. The Tribunal's preliminary indication is that this complaint case has a complexity level corresponding to the lowest level of complexity referred to in Annex A of the *Guideline* (Level 1). The complexity of the procurement was low, as it involved the provision of one type of service and was conducted within the framework of a pre-existing supply arrangement. The Tribunal finds that the complexity of the complaint was low, as the issues were straightforward and dealt with whether PWGSC properly evaluated Samson's proposal against one mandatory criterion. Finally, the complexity of the proceedings was low as the issues were resolved by the parties through documentary evidence and written representations, and a hearing was not necessary.

43. Accordingly, as contemplated by the *Guideline*, the Tribunal's preliminary indication of the amount of the cost award is \$1,000.

#### **DETERMINATION OF THE TRIBUNAL**

44. Pursuant to subsection 30.14(2) of the *CITT Act*, the Tribunal determines that the complaint is not valid.

45. Pursuant to section 30.16 of the *CITT Act*, the Tribunal awards PWGSC its reasonable costs incurred in responding to the complaint, which costs are to be paid by Samson. In accordance with the *Guideline*, the Tribunal's preliminary indication of the level of complexity for this complaint case is Level 1, and its preliminary indication of the amount of the cost award is \$1,000. If any party disagrees with the preliminary indication of the level of complexity or the preliminary indication of the amount of the cost award, it may make submissions to the Tribunal, as contemplated by article 4.2 of the *Guideline*. The Tribunal reserves jurisdiction to establish the final amount of the award.

Stephen A. Leach  
Stephen A. Leach  
Presiding Member