



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Procurement

ORDER

File No. PR-2003-076

Bosik Vehicle Barriers Ltd.

v.

Department of Public Works and
Government Services

*Order issued
Monday, May 17, 2004*

IN THE MATTER OF a complaint filed by Bosik Vehicle Barriers Ltd. under subsection 30.11(1) of the *Canadian International Trade Tribunal Act*, R.S.C. 1985 (4th Supp.), c. 47;

AND FURTHER TO the Canadian International Trade Tribunal's preliminary indication of the level of complexity of the complaint case and the amount of its cost award.

BETWEEN

BOSIK VEHICLE BARRIERS LTD.

Complainant

AND

THE DEPARTMENT OF PUBLIC WORKS AND GOVERNMENT SERVICES

Government Institution

ORDER

In its determination of March 29, 2004, the Canadian International Trade Tribunal (the Tribunal), pursuant to section 30.16 of the *Canadian International Trade Tribunal Act*,¹ awarded Bosik Vehicle Barriers Ltd. (Bosik) its reasonable costs incurred in preparing and proceeding with its complaint. The Tribunal's preliminary indication of the level of complexity for this complaint case was Level 1 and of the amount of its cost award was \$1,500.

The Tribunal received submissions from both Bosik and the Department of Public Works and Government Services (PWGSC) on April 6, 2004. No subsequent submissions were received.

Regarding the complexity of the procurement, the Tribunal notes that the product being procured was somewhat more complex than an off-the-shelf product, as there were special technical specifications and a requirement for installation and testing. However, the Tribunal considers the specifications to be straightforward, as they deal with uncomplicated parameters (e.g. length of the barricades, voltage and manual override capability) that require less than a single page of description in the Request for Proposal (RFP). The Tribunal also notes that there were no separate specifications or instructions regarding the installation or testing elements of the RFP. Consequently, the complexity of the procurement is low, but somewhat higher than the complexity of Level 1 cases normally considered by the Tribunal.

Concerning the complexity of the complaint itself, the Tribunal was required to consider a single, straightforward ground of complaint, i.e. whether bidders had enough time to respond to an amended procurement requirement. Thus, the complexity of the complaint is low.

Regarding the complaint proceedings, the Tribunal notes that there were no motions and only one intervener. There were some minor submissions beyond the scope of normal proceedings, due to issues raised by PWGSC concerning Bosik's response to the Government Institution Report; however, the proceedings were still completed within the 45-day "express option" time frame. Therefore, the complaint

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

proceedings were of low complexity, although somewhat more complex than the proceedings in Level 1 cases normally considered by the Tribunal.

In light of the above, the Tribunal finds that, overall, the complaint case was of low complexity (Level 1, as contemplated in its *Guideline for Fixing Costs in Procurement Complaint Proceedings*), but somewhat more complex than the Level 1 cases normally considered by the Tribunal. It, therefore, confirms its initial assessment of complexity, allows Bosik costs in the amount of \$1,500 for preparing and proceeding with the complaint and directs PWGSC to take appropriate action to ensure prompt payment.

Ellen Fry

Ellen Fry

Presiding Member

Susanne Grimes

Susanne Grimes

Acting Secretary