



Ottawa, Friday, October 24, 2003

File No. PR-2002-051

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

AND FURTHER TO a determination made pursuant to section 30.16 of the *Canadian International Trade Tribunal Act* awarding the Department of Public Works and Government Services its reasonable costs incurred in relation to responding to the complaint, which costs are to be paid by Antian Professional Services Inc.

ORDER

INTRODUCTION

In a determination made on April 2, 2003, the Canadian International Trade Tribunal (the Tribunal) awarded the Department of Public Works and Government Services (PWGSC) its reasonable costs incurred in relation to responding to the complaint. The costs were limited to those related to the preparation of the Government Institution Report (GIR) and excluded those related to the request for additional information from the Colterman Marketing Group Canada (CMG) and Alliance Group.

On May 2, 2003, PWGSC submitted its claim for costs to the Tribunal in the amount of \$4,587.50. On May 7, 2003, Antian Professional Services Inc. (Antian) forwarded its comments regarding PWGSC's claim to the Tribunal. On May 13, 2003, PWGSC provided further comments to the Tribunal.

COMPLAINT COSTS

PWGSC claimed \$4,587.50 for legal fees. This consisted of 36.7 hours at \$125.00 per hour for work performed by PWGSC's in-house counsel. PWGSC included a claim for 1.1 hours spent after the completion and filing of the GIR, which related to the review of Antian's comments on the GIR and other correspondence submitted by Antian and CMG after February 7, 2002, but did not relate to the request for further information.

Antian submitted that the costs recoverable by PWGSC are limited to the costs associated with the preparation of the GIR. According to Antian, it reviewed the Monthly Transaction Report and noted that only 21.9 hours related to the GIR. Antian also pointed to the fact that there appeared to be two entries related to drafting, and questioned whether these were for the same work. Antian also submitted that the time sheets added up to 40.2 hours and not 36.7 hours, as indicated in the Summary of Legal Fees. According to Antian, the total costs to be paid should be \$2,624.50 and not the amount claimed. Antian also submitted that it should not be asked to pay for all the redrafting of the GIR undertaken by legal counsel and that one or two drafts of a document would be a reasonable requirement. According to Antian, this would further reduce the costs to \$2,024.50. Antian could not locate the 1.1 hours in the charge sheet, as referenced on page 2 of PWGSC's letter, neither could it determine if this was included with another entry after February 7, 2003. Antian submitted that, if this work was completed subsequent to the preparation of the GIR, then the charges should be excluded because they do not fall within the Tribunal's jurisdiction.

PWGSC submitted that, upon review, it had determined that, as a result of an inadvertent error, some of the time spent by PWGSC's legal counsel had been omitted from the original claim. Accordingly, the revised total hours claimed should be 39.7 hours rather than 36.7 hours. According to PWGSC, all this time was spent responding to the complaint submitted by Antian but, in accordance with the direction of the Tribunal, does not include time for the legal services related to the acquisition of the additional information from the interveners during the preparation of the GIR (0.5 hours on January 20, 2003). PWGSC submitted that all the legal services and time spent and claimed with respect to this matter were reasonable.

The Tribunal is of the view that the 39.7 hours claimed for PWGSC's legal counsel appear reasonable. The Tribunal notes that the amount recoverable by PWGSC is limited to the costs incurred in relation to the preparation of the GIR. In its submission dated May 2, 2003, PWGSC states that the time claimed includes 1.1 hours spent after the completion and filing of the GIR. PWGSC states that this relates to the review of Antian's comments on the GIR and other correspondence submitted to the Tribunal after February 7, 2003, by Antian and CMG. According to PWGSC, this work, while subsequent to "the preparation of the GIR", did not involve "the request for additional information from CMG and Alliance". However, as was previously mentioned, recoverable costs are limited to the *preparation* of the GIR. PWGSC itself indicates that these hours were subsequent to the preparation of the GIR. Accordingly, the Tribunal will disallow these hours.

The Tribunal recognizes that Antian has argued that only 21.9 hours specifically relate to the GIR. However, the Tribunal is also of the opinion that the GIR is the major document supporting PWGSC's case and its preparation would include meetings with the client and a review of pertinent documents. Therefore, the Tribunal accepts that such activities are necessary for PWGSC to adequately prepare its response to the complaint. Thus, the Tribunal allows the hours claimed as 39.7 less the 1.1 hours unrelated to the preparation of the GIR, or 38.6 hours. The Tribunal also notes that, according to Appendix B of the *Procurement Cost Guidelines* (the *Guidelines*), in-house legal fees are to be billed at \$500.00 per day or, based on a 7½-hour¹ day at \$66.66 per hour. PWGSC billed its in-house counsel at \$125.00 per hour. Again, the Tribunal sees no reason to deviate from the *Guidelines*. Accordingly, the Tribunal allows PWGSC its costs of \$2,573.08, i.e. 38.6 hours at \$66.66 per hour.

CONCLUSION

The Tribunal hereby allows PWGSC costs in the amount of \$2,573.08 for responding to the complaint and directs Antian to take appropriate action to ensure prompt payment.

Pierre Gosselin
Pierre Gosselin
Presiding Member

Michel P. Granger
Michel P. Granger
Secretary

1. While the *Guidelines* refer to a 7-hour day, it is accepted practice that the workday is 7½ hours.