



Canadian International  
Trade Tribunal

Tribunal canadien du  
commerce extérieur

CANADIAN  
INTERNATIONAL  
TRADE TRIBUNAL

# Procurement

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## DECISION AND REASONS

File No. PR-2020-029

Melanite Group Ltd.

*Decision made  
Wednesday, August 19, 2020*

*Decision and reasons issued  
Wednesday, August 26, 2020*

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

**BY**

**MELANITE GROUP LTD.**

**AGAINST**

**THE ROYAL CANADIAN MOUNTED POLICE**

**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 because it is premature given that the complainant has not yet received a response to its objection from the government institution.

Randolph W. Heggart

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Randolph W. Heggart

Presiding Member

## 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] Subsection 6(2) of the *Regulations* 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.”

[3] This complaint was filed by Melanite Group Ltd. (Melanite) on August 17, 2020, and relates to a Request for Proposal (RFP) issued by the Royal Canadian Mounted Police (RCMP) for the provision of Rapid Deployment (RaD) shelters.

[4] Melanite’s complaint alleges that the RCMP did not comply with the terms of the RFP because Melanite’s bid was responsive to the mandatory requirements of the RFP and was at a lower price than the successful bidder’s one.

[5] On August 10, 2020, Melanite received a letter from the RCMP stating that although Melanite’s bid was responsive to the mandatory requirements of the solicitation, it did not achieve the evaluation methodology (lowest evaluated price) described in the solicitation and would therefore not be awarded the contract for RaD shelters.

[6] Subsequently, on August 11, 2020, Melanite sent an email to the RCMP requesting disclosure of the total evaluated price for the successful bid. The Tribunal finds that this email constitutes an objection.

[7] There is no evidence that Melanite has received a response from the RCMP in relation to the email mentioned above. As such, the record indicates that, while Melanite has made an objection to the RCMP, it has not yet been denied relief by the RCMP. In the absence of a response, the Tribunal finds that Melanite’s objection remains pending with the RCMP.

[8] Accordingly, in these circumstances, the Tribunal is unable to find that Melanite has or is deemed to have actual or constructive knowledge of a denial of relief by the RCMP within the meaning of subsection 6(2) of the *Regulations*. Melanite’s complaint is therefore premature.

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

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

[9] The Tribunal's decision does not preclude Melanite from filing a new complaint *within 10 working days* of receiving a denial of relief from the RCMP. Furthermore, if the RCMP fails to respond to Melanite's objection within 30 days of the issuance of these reasons, i.e. by September 25, 2020, Melanite may consider the RCMP's silence as a constructive denial of relief. In that case, Melanite would then be able to file a new complaint with the Tribunal within 10 working days of that date. At that time, Melanite may request that documents already filed with the Tribunal be joined to the new complaint.

[10] If Melanite files a new complaint, the Tribunal will then decide whether to inquire into the complaint, having particular regard to the conditions of the *Regulations*.

## **DECISION**

[11] In consideration of the foregoing, and pursuant to subsection 30.13(1) of the *CITT Act*, the Tribunal has decided not to conduct an inquiry into the complaint.

Randolph W. Heggart

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Randolph W. Heggart  
Presiding Member