



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Procurement

DECISION AND REASONS

File PR-2022-077

L. Spence

*Decision made
Monday, April 3, 2023*

*Decision and reasons issued
Wednesday, April 5, 2023*

IN THE MATTER OF a complaint filed pursuant to subsection 30.11(1) of the *Canadian International Trade Tribunal Act*.

BY

L. SPENCE

AGAINST

THE DEPARTMENT OF TRANSPORT

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. At the time of consideration of the documents on the record, L. Spence had not received a denial of relief from the Department of Transport.

Eric Wildhaber

Eric Wildhaber
Presiding Member

STATEMENT OF REASONS

[1] Subsection 30.11(1) of the *Canadian International Trade Tribunal Act*¹ (CITT Act) provides that, subject to the *Canadian International Trade Tribunal Procurement Inquiry Regulations*² (Regulations), a potential supplier may file a complaint with the Canadian International Trade 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 must decide whether to conduct an inquiry into the complaint.

[2] This complaint by L. Spence relates to a procurement (solicitation T5013-220263) issued by the Department of Transport for janitorial services at the Churchill Airport. In her complaint, L. Spence makes several allegations of serious wrongdoing in relation to the conduct of the procurement process.

[3] The request for proposal was issued on January 27, 2023,³ with a bid closing date of March 8, 2023. The Tribunal acknowledged receipt of L. Spence's complaint as filed on March 31, 2023.

[4] Pursuant to subsection 6(1) of the Regulations, a potential supplier may file a complaint with the Tribunal no "later than 10 working days after the day on which the basis of the complaint became known." The potential supplier may also file, pursuant to subsection 6(2) of the Regulations, a complaint following an objection made to the relevant government institution when relief is denied by that government institution. In this case, the complaint with the Tribunal must be filed "... 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] On March 24, 2023, L. Spence made an objection to the Department of Transport, pursuant to subsection 6(2) of the Regulations, concerning the solicitation in issue. When L. Spence filed her complaint with the Tribunal on March 31, 2023, she had not yet received a response from the Department of Transport, much less a denial of relief.

[6] In the Tribunal's view, given that L. Spence filed her complaint before having received a denial of relief from the Department of Transport, the complaint is premature. The Tribunal takes note of L. Spence's vigilance in respecting the short timelines applicable to procurement complaints. However, the Tribunal cannot consider that the complaint meets the requirements of the Regulations at this time. For those reasons, the Tribunal will not conduct an inquiry into the complaint at this time.

[7] The Tribunal's decision does not preclude L. Spence from filing a new complaint within 10 working days of receiving a denial of relief from the Department of Transport. Alternatively, if the Department of Transport fails to respond to her concerns within 20 days of the issuance of these reasons, she may consider the lack of response as a denial of relief. She would then have 10 working

¹ R.S.C., 1985, c. 47 (4th Supp.).

² SOR/93-602.

³ Online: <<https://canadabuys.canada.ca/en/tender-opportunities/tender-notice/pw-23-01023734>>.

days to file a new complaint with the Tribunal. Upon filing a new complaint, she 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 because it is premature. At the time of consideration of the documents on the record, L. Spence had not received a denial of relief from the Department of Transport.

Eric Wildhaber

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Presiding Member