



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Procurement

DECISION

File PR-2024-065

Beckman Coulter Canada LP

*Decision made
Thursday, January 2, 2025*

*Decision issued
Friday, January 3, 2025*

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

BY

BECKMAN COULTER CANADA LP

AGAINST

THE DEPARTMENT OF PUBLIC WORKS AND GOVERNMENT SERVICES

DECISION

Beckman Coulter Canada LP (Beckman) filed a complaint that relates to a solicitation by the Department of Public Works and Government Services (PWGSC), on behalf of the Canadian Food Inspection Agency, for the supply of a robotic multichannel liquid handler system for serum sample handling.

The Canadian International Trade Tribunal has decided not to conduct an inquiry into the complaint, pursuant to subsection 30.13(1) of the *Canadian International Trade Tribunal Act*.

The Tribunal finds that the ground of complaint regarding whether PWGSC required Beckman's proprietary software, "DART software 2.0 Data Reporting and Acquisitions tool", at Mandatory Technical Requirement 13 (M13) of the request for proposal (RFP) is late.

In the RFP issued on June 27, 2024, M13 contained a patent ambiguity: "The software must include Data Acquisition and Reporting Tools that allow users to review data and view errors during operation."

The ambiguity should have been apparent to Beckman from the terms of the RFP before the bid closing date of August 3, 2024. However, Beckman did not seek clarification as to what M13 required, or otherwise file an objection or a complaint, within the timeline pursuant to section 6 of the *Canadian International Trade Tribunal Procurement Inquiry Regulations* (Regulations).

Given the above and PWGSC's later clarification that M13 did not require Beckman's proprietary software, the Tribunal finds that Beckman's other two grounds of complaint do not disclose a reasonable indication that the procurement has not been conducted in accordance with the applicable trade agreements as set out in paragraph 7(1)(c) of the Regulations. Beckman's other two grounds of complaint are as follows:

- The winning bidder cannot fulfill the proprietary software requirement of M13; and
- Beckman would have been the lowest priced bidder if it had not interpreted M13 as requiring its proprietary software.

Susana May Yon Lee

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Presiding Member

The statement of reasons will be issued at a later date.