Canadian International Trade Tribunal

Tribunal canadien du commerce extérieur

CANADIAN INTERNATIONAL TRADE TRIBUNAL

Procurement Inquiries

GUIDE

TABLE OF CONTENTS

PROCUREMENT INQUIRIES – A DESCRIPTIVE GUIDE - 1 -
INTRODUCTION - 1 -
BACKGROUND - 1 -
CFTA - 1 -
The other trade agreements - 2 -
Regulations and Rules - 3 -
DEFINITIONS - 3 -
TRIBUNAL'S MANDATE - 3 -
PROCUREMENT COMPLAINTS - 3 -
Objections Directed to a Government Institution - 3 -
Complainant - 4 -
Transmitting a Complaint - 4 -
Complaint Format - 4 -
Basis of a Complaint - 5 -
FILING A COMPLAINT - 5 -
Meaning of "Filed" - 5 -
Time Limits for Filing a Complaint - 5 -
Time Limit Extension - 6 -
Late Filing of Submissions - 6 -
TRIBUNAL INQUIRY PROCESS - 6 -
Decision to Conduct an Inquiry - 6 -
Length of an Inquiry - 90 days (normal); 135 days (extended option) - 7 -
Express Option – 45 days - 7 -
Contract Award and Performance - 7 -
Interveners - 7 -
Government Institution Report - 7 -
Replies to the GIR - 8 -
Responses to Replies to the GIR - 8 -
Hearing - 8 -
Withdrawal of a Complaint - 8 -
Dismissal of a Complaint - 8 -
Cessation of the Inquiry - 8 -
Timeframes for Determination - 9 -
Determination - 9 -
Remedies and Costs - 9 -
Further Recourse - 9 -
PROTECTION OF CONFIDENTIAL INFORMATION - 10 -
Designation of information as confidential - 10 -
Access to Confidential Information - 10 -
MATTERS NOT FALLING WITHIN THE TRIBUNAL'S JURISDICTION - 11 -
Non-designated Contracts - 11 -
Subcontract Awards - 11 -
Contract Performance - 11 -
Matters to Be Determined by Other Bodies - 11 -
LINKS TO RELEVANT LEGISLATION AND VARIOUS TRADE AGREEMENTS - 11 -

APPENDIX I CHECKLIST FOR FILING A COMPLAINT ..... - 13 -
APPENDIX 2 SCHEDULE OF EVENTS IN A 90-DAY INQUIRY ..... - 15 -
APPENDIX 3 SCHEDULE OF EVENTS IN A 45-DAY INQUIRY (EXPRESS OPTION)..... - 16 -

PROCUREMENT INQUIRIES – A DESCRIPTIVE GUIDE

INTRODUCTION

The Canadian International Trade Tribunal (Tribunal) provides a forum whereby issues regarding the conduct of certain federal procurements can be addressed at the request of suppliers. Various trade agreements designate the Canadian International Trade Tribunal (the Tribunal) as the bid challenge (complaint) authority for Canada. Parliament has enacted legislation designed to ensure that the procurements covered by the trade agreements are conducted in an open, fair and transparent manner and, wherever possible, in a way that maximizes competition. On occasion, a supplier (or potential supplier) may have reason to believe that a contract has been or is about to be awarded improperly or illegally, or that, in some way, it has been wrongfully denied a contract or an opportunity to compete for one. The Tribunal provides an opportunity for redress for suppliers concerned about the propriety of the procurement process relating to contracts covered by the trade agreements.

BACKGROUND

CFTA

The *Canadian Free Trade Agreement*[1] entered into force on July 1, 2017, replacing the *Agreement on Internal Trade*.[2] As a party to the *CFTA*, the Government of Canada has agreed to provide all Canadian suppliers equal access to federal government procurement for contracts involving goods and services (including construction services) bought by government departments, agencies and Crown corporations, other than those that are expressly excluded under the *CFTA*.[3] Insofar as the federal government[4] is concerned, the *CFTA* applies to procurements with a value equal to or greater than $25,000 (at the time of coming into force), in cases where the largest portion of the procurement is for goods, and a value equal to or greater than $100,000 (at the time of coming into force), in cases where the largest portion of the procurement is for services, including construction services contracts, as adjusted from time to time.[5]

The *CFTA* prohibits the federal government from discriminating against goods or services of a particular province or region, as well as between the suppliers of such goods or services and those of any other province or region. The *CFTA* imposes procedural disciplines aimed at promoting equal access to government procurement for all Canadian suppliers.

1. Online: Internal Trade Secretariat <https://www.cfta-alec.ca/wp-content/uploads/2017/06/CFTA-Consolidated-Text-Final-Print-Text-English.pdf> (entered into force July 1, 2017) [*CFTA*].
2. 18 July 1994, C. Gaz. 1995.I.1323, online: Internal Trade Secretariat <https://www.ait-aci.ca/wp-content/uploads/2017/06/Consolidated-with-14th-Protocol-final-draft.pdf> [*AIT*].
3. Excluded goods, services and entities are listed in Annex 520.1 of the *CFTA*.
4. While the *CFTA* covers government procurements at the sub-federal level, the Tribunal's jurisdiction is limited to complaints involving federal government procurement.
5. For the most up to date thresholds for the *CFTA* and all trade agreements, refer to the Tribunal's Web site. The monetary thresholds for the various trade agreements are published by the Treasury Board Secretariat in contracting policy notices that are updated from time to time (https://www.canada.ca/en/treasury-board-secretariat/services/policy-notice.html).

The other trade agreements

As a party to bilateral or multilateral trade agreements such as the *North American Free Trade Agreement*,[6] the *Canada-European Union Comprehensive Economic and Trade Agreement*,[7] the *Canada-Korea Free Trade Agreement*,[8] the *Canada-Chile Free Trade Agreement*[9] and the *Canada-Colombia Free Trade Agreement*,[10] Canada has agreed to provide suppliers of the certain countries with equal opportunity to compete with Canadian suppliers for contracts involving specified classes of goods and services (including construction services) bought by the government departments, agencies and enterprises covered in these trade agreements.

In addition, as a party to the *Agreement on Government Procurement*,[11] Canada has agreed to provide suppliers of certain WTO member countries equal opportunity to compete with Canadian suppliers for contracts involving specified classes of goods and services (including construction services) bought by the government departments, agencies and enterprises listed in the *AGP*.

These trade agreements apply to federal government procurements with a value equal to or greater than certain monetary thresholds, which may vary from agreement to agreement. These thresholds are revised periodically in accordance with the indexation and conversion provisions in the trade agreements.

These trade agreements guarantee national treatment and non-discrimination to goods originating in the signatory countries, as well as to the suppliers of such goods and services. They impose procedural disciplines aimed at promoting transparency, predictability and competition in public sector procurements.

In keeping with the principle of treating Canadian suppliers no less favorably than suppliers from other countries, Canadian suppliers may also have recourse against the Government of Canada under these trade agreements.

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6. *North American Free Trade Agreement between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America*, 17 December 1992, 1994 Can. T.S. No. 2, online: Global Affairs Canada <http://www.international.gc.ca/trade-agreements-accords-commerciaux/agr-acc/nafta-alena/fta-ale/index.aspx?lang=eng> (entered into force 1 January 1994) [*NAFTA*].
7. Online: Global Affairs Canada <http://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/ceta-aecg/text-texte/toc-tdm.aspx?lang=eng> (entered into force provisionally 21 September 2017) [*CETA*].
8. *Free Trade Agreement between Canada and the Republic of Korea*, online: Global Affairs Canada <http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/korea-coree/fta-ale/14.aspx?lang=eng> (entered into force 1 January 2015).
9. *Free Trade Agreement between the Government of Canada and the Government of the Republic of Chile*, 1997 Can. T.S. No. 50, online: Global Affairs Canada < http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/chile-chili/fta-ale/index.aspx?lang=eng> (entered into force 5 July 1997) [*CCFTA*]. Chapter K*bis*, entitled "Government Procurement", came into effect on September 5, 2008.
10. *Free Trade Agreement between Canada and the Republic of Colombia*, online: Global Affairs Canada < http://international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/colombia-colombie/fta-ale/index.aspx?lang=eng> (entered into force 15 August 2011) [*CCOFTA*].
11. *Revised Agreement on Government Procurement*, online: World Trade Organization <http://www.wto.org/english/docs_e/legal_e/rev-gpr-94_01_e.htm> (entered into force 6 April 2014) [*AGP*].

Regulations and Rules

The *Canadian International Trade Tribunal Procurement Inquiry Regulations*[12] and the *Canadian International Trade Tribunal Rules*[13] set out the procedures to follow when appearing before the Tribunal and the time limits for the various steps in the review process. You should consult them. This guide provides a summary of what they set out, but in case of a discrepancy it is the *Regulations* and the *Rules* that prevail..

DEFINITIONS

"Counsel" means any person, other than a director, servant or employee of a party to proceedings, who acts in the proceedings on behalf of the party.

"Designated contract" means a contract for the supply of goods or services that has been or is proposed to be awarded by a government institution and that is designated or of a class of contracts designated, by the *Canadian International Trade Tribunal Procurement Inquiry Regulations.*

"Government institution" means any department or ministry of state of the Government of Canada, or any other body or office, that is designated by the *Canadian International Trade Tribunal Procurement Inquiry Regulations.*

"Intervener" means an interested party that has been granted leave of the Tribunal to intervene in any proceedings in relation to a complaint.

"Potential supplier" means a bidder or prospective bidder on a designated contract.

"Send" means to transmit by hand, registered mail or electronic transmission in respect of a document, information or a notification.

"Working day" means a day that is not a Saturday, a Sunday or a holiday. For additional information see the practice notice on 'Holidays for the Purpose of the Tribunal's proceedings found on the Tribunal's website at www.citt-tcce.gc.ca/en/holidays_purp_proceedings_e.

TRIBUNAL'S MANDATE

The Tribunal's mandate authorizes it to receive complaints pertaining to any aspect of the procurement process, to conduct inquiries and to make determinations. Its jurisdiction covers complaints under the trade agreements.

In dealing with a complaint, the Tribunal must determine whether the government institution responsible for the procurement under review has complied with the requirements of the trade agreements and such other procedural requirements as prescribed in the *Regulations*.

PROCUREMENT COMPLAINTS

Objections Directed to a Government Institution

A potential supplier that objects to a procurement is encouraged to first contact the appropriate government institution. The fact that an objection is directed to a government institution, and is thereafter

12. S.O.R./93-602 [*Regulations*].
13. S.O.R./91-499 [*Rules*].

dismissed or otherwise denied, does not prevent a potential supplier from subsequently directing the same objection to the Tribunal, provided the requirements for filing and the timeframes within which to file are observed. The deadlines for making an objection or filing a complaint are very tight, so potential suppliers are urged to exercise vigilance in order to preserve their right to recourse.

Complainant

Any potential supplier may file a complaint with the Tribunal with regard to a designated contract. A complainant may decide to retain counsel.

Transmitting a Complaint

The complaint and all supporting documents can be sent to the Tribunal using its Secure E-filing Service located at https://efiling-depote-pub.citt-tcce.gc.ca/submit-eng.aspx or by regular (non-encrypted) electronic mail to citt-tcce@tribunal.gc.ca, provided the sender accepts the risks associated with this method of transmission.

The Tribunal requires only ***one*** electronic copy.

The Tribunal will normally not accept paper filings. However, should a complainant be unable to file electronically it should contact the Registrar of the Tribunal.

Complaint Format

Complaints must be made in writing. As an aid to filing, a complaint form is available on the Tribunal's Web site at www.citt-tcce.gc.ca/en/how-file-complaint. It is not intended to replace the requirements outlined in the *Canadian International Trade Tribunal Act*[14] or the *Regulations.*

Potential suppliers who elect not to use the procurement complaint form should ensure that their complaint is concise and logical. A complaint *must* contain the following information:

- The identity of the complainant - This includes the company name, address, telephone number, e-mail address and fax number of the complainant and the name of the individual authorized to file the complaint and the independent counsel information, if applicable.
- Information on the Procurement - This includes the solicitation number or file number, contract number, if known, estimated contract value, the product or service being procured, the Federal Supply Classification code, Goods and Services Identification number or NATO stock number, if known, relevant times and dates (i.e. issuance of solicitation, bid closing, contract award).
- Identity of the government institution - This includes the name of the requisitioning authority or contracting authority.

  The Tribunal needs the above information in order to establish that the complainant is a potential supplier and that the complaint is in respect of a designated contract. These conditions must be met before the complaint can be accepted for inquiry.
- Elements of the Complaint - This includes a clear and detailed statement of the substantive (legal) and factual grounds of the complaint. The complaint must be organized in such a manner that a reader can understand, without further explanation, why the complaint is being made. The complaint must provide a description of events, and include times and dates and any

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

information that led to the complaint, identify the provisions in the trade agreements that have allegedly been breached and include all relevant facts and documents which support any allegations made.

- A statement regarding the form of relief or remedy requested - For example, complainants may request a number of remedies, such as the issuance of a new solicitation, the re-evaluation of a bid, the termination of the designated contract, the award of the designated contract to the complainant or compensation. Complainants may also request that they be reimbursed for the reasonable costs that they incurred in preparing a response to the solicitation for the designated contract as well as for preparing and proceeding with the complaint. For more information regarding costs and compensation, please see the Recommendations/Remedies section below.

  It should be noted that, in a situation where a complaint has been found not valid, costs may be awarded to the procuring entity.

- Attachments - Include all relevant documents, such as any notice published on Buyandsell.gc.ca (the Government of Canada's electronic tendering service), all tender documents including the complete solicitation, with all amendments and attachments, the complainant's bid proposal in full, including the financial and technical proposal, all related correspondence between the complainant and the government institution including e-mails, letters, faxes, etc. and any other written information that relates to any objection made.

Basis of a Complaint

The Tribunal considers complaints against solicitations and awards or proposed awards on a designated contract. Under the *Regulations*, the designated contracts are those described in the procurement chapters of the trade agreements. A complaint may relate to any aspect of the procurement process and concern one or more of the procedural requirements contained in the procurement chapters of the trade agreements. For example, allegations regarding restrictive specifications, the omission of a required provision, ambiguous or indefinite evaluation factors, and the inconsistent or mistaken application of evaluation criteria are some of the matters that may form the basis of a complaint.

FILING A COMPLAINT

Meaning of "Filed"

Provided it complies with the requirements of the *CITT Act*, a complaint is considered filed on the day on which the Tribunal receives it. If a complaint is deficient, it is only considered filed on the day that the Tribunal receives the information that corrects the deficiency(ies).

Time Limits for Filing a Complaint

An inquiry by the Tribunal into a procurement complaint may delay the procurement or delivery of goods and services needed by the federal government. Therefore, in order to minimize the possible adverse impact of these delays, short time limits for the filing and the resolution of complaints have been established.

Generally, a potential supplier that files a complaint with the Tribunal must do so not later than 10 working days after the day on which the basis of the complaint became known or reasonably should have become known to the potential supplier.

If a potential supplier has made an objection to the relevant government institution, it may file a complaint with the Tribunal within 10 working days after the day on which it has actual or constructive knowledge of the denial of relief by that government institution, provided the objection was made to the government institution within the 10-working-day period mentioned in the preceding paragraph.

Where conditions exist that are beyond the control of the complainant or when, taking into consideration all the circumstances of the procurement, including the good faith of the potential supplier, a complaint raises an issue of a systemic nature, the Tribunal may consider any complaint not filed within the time limits set out above, provided such complaints are filed not later than 30 calendar days after the day on which the basis of the complaint became known or reasonably should have become known to the potential supplier. When a complainant invokes reasons beyond its control, those reasons should be substantiated in the documentation submitted to the Tribunal.

In order to determine the filing deadline, the day on which the designated period of time begins shall not be counted, but the last day of the period shall be counted, unless that day is a Saturday, a Sunday or a holiday observed in the province in which a response or filing of documents is required to be made, in which event, the period shall include the next working day. When the period of time prescribed or allowed is eight days or less, any intervening Saturday, Sunday or holiday shall not be counted. Please see the Tribunal's Practice Notice on Holidays for the Purpose of Tribunal Proceedings on the Tribunal's website at www.citt-tcce.gc.ca/en/holidays_purp_proceedings_e.

Time Limit Extension

The Tribunal may, where considerations of fairness require and exceptional circumstances exist, extend any time limit set out in the *Rules*. This, however, does not apply to the deadlines for filing of a complaint.

Under no circumstances will a time limit extension prolong the procurement review process beyond 135 days from the filing of a complaint.

Late Filing of Submissions

The Tribunal will not delay its determination on a complaint due to the failure of a party to file a submission within the prescribed time limit. The failure of any party to comply with the prescribed time limits may result in the resolution of the complaint without the Tribunal's consideration of the late submission.

TRIBUNAL INQUIRY PROCESS

Decision to Conduct an Inquiry

Upon receipt of a complaint, the Tribunal assigns a file number, sends a letter to the complainant acknowledging receipt of the complaint, copying the government institution concerned at the same time.

Within five working days from the filing of a complaint, the Tribunal must decide whether or not to conduct an inquiry.

When the complaint is accepted for inquiry, the Tribunal notifies the complainant and the relevant government institution. If the contract has been awarded the government institution must provide the contractor's name and address. The Tribunal will notify the contract awardee of the complaint and

procedures to follow should they wish to intervene in the proceedings. In all cases where the Tribunal accepts a complaint for inquiry, a notice of inquiry is posted on the Tribunal's website and is also published in the *Canada Gazette*.

If the complaint is not accepted for inquiry, the complainant is notified of that decision and reasons follow, usually within 15 days.

Length of an Inquiry - 90 days (normal); 135 days (extended option)

Normally, the Tribunal has 90 days from the filing of the complaint to complete its inquiry. If, however, circumstances warrant, the Tribunal may decide to extend the inquiry to 135 days.

Express Option – 45 days

Any party may request the use of the express option, which requires the Tribunal to reach a determination within 45 days. However, such a request must be made in writing and submitted to the Tribunal as soon as possible after the filing of the complaint. The Tribunal then decides whether the case is suitable for the express option, taking into consideration the reasons for the request, the complexity of the case and the workload of the Tribunal. When the express option is used, the normal time limits for submission of the various reports and comments and the issuance of the Tribunal's determination are compressed.

Contract Award and Performance

When a complaint is accepted for inquiry prior to contract award, the Tribunal may order the government institution to postpone any award of contract until the resolution of the complaint. If, however, the government institution certifies in writing to the Tribunal within the prescribed time limit that the procurement is urgent or that delaying the award would be contrary to the public interest, the Tribunal must rescind such an order. Nevertheless, the inquiry continues. The Tribunal does not have the power to delay the performance of any contract already awarded.

Interveners

An interested party may, with leave of the Tribunal, intervene in any proceedings before the Tribunal. A request for intervener status must be submitted in writing to the Tribunal along with reasons why the request should be granted. For example, interveners should have a direct economic interest in the inquiry that would not adequately be represented by either the complainant or the government institution, or it may be able to assist the Tribunal in resolving the matter. Other potential suppliers, whether the contract awardee or otherwise, are often allowed to intervene.

Government Institution Report

Within 25 days of receiving a copy of a complaint that has been accepted for inquiry, the government institution responds by filing a Government Institution Report (GIR) with the Tribunal, the complainant and any other intervening party, including a statement which fully responds to all the issues forming the basis of the complaint.

Upon receipt of the GIR, the Tribunal sends a copy to the complainant and any interveners.

Replies to the GIR

Within seven days of being sent the GIR, the complainant and any interveners may provide the Tribunal with their comments. The complainant may, in the alternative, request that the Tribunal make its determination based on information already on file.

The Tribunal sends to all parties, for their information, any comments that it receives on the GIR.

Responses to Replies to the GIR

The inquiry process does not contemplate the filing of any responses to replies to the GIR. However, should the government institution feel that new facts have been presented in the replies to the GIR, it may request permission to file a response.

All the information gathered during the above stages is submitted to the Tribunal. If the Tribunal considers that sufficient information exists to decide the case, it proceeds to make a determination.

Hearing

The Tribunal usually decides the case on the basis of written submissions. However, if the information is insufficient or disputed, the Tribunal may, on its own initiative or at the request of a party, schedule a public hearing at which the parties and counsel appear before the Tribunal. A hearing involves more formal procedures. Witnesses may be called upon to testify under oath or by affirmation, and a transcript of the proceedings is made. A hearing may be held for various reasons, including the need to resolve a specific factual dispute that is essential to the resolution of the complaint and that cannot be otherwise resolved on the written record. A hearing should be requested as early as possible during the review process.

Withdrawal of a Complaint

In the event that parties resolve the complaint before the Tribunal makes its determination, or in the event that the complainant decides not to pursue the complaint further, the complainant may withdraw the complaint by sending a letter to the Tribunal, in writing, advising of its intentions.

Dismissal of a Complaint

The Tribunal may dismiss a complaint at any time where:

- the complaint has no valid basis;
- the complaint is not in respect of a procurement by a government institution;
- the complaint is not filed within the time limits set out in the *Regulations* or the *Rules*; or
- the complainant has failed to file any information required by the Tribunal.

Cessation of the Inquiry

The Tribunal may cease an inquiry if it finds that the complaint is trivial, frivolous or vexatious or is not made in good faith. The Tribunal may also terminate an inquiry if the government institution has cancelled the procurement process and re-tendered its requirement in such way that the complainant has in effect obtained the relief it was seeking.

Timeframes for Determination

As indicated earlier, under the normal time frame, the Tribunal must issue its determinations and recommendations within 90 days of the filing of the complaint. If the express option has been invoked, this is done within 45 days from the date of filing. Under certain circumstances, the Tribunal may extend the deadline for issuing the findings and recommendations beyond 90 days, but under no circumstances does it exceed 135 days.

Determination

Notwithstanding the above timeframes, the Tribunal may, at any stage of the proceedings, decide that the record is complete and proceed to make a determination on the complaint. A copy of the determination and statement of reasons is sent to the complainant, the government institution and any interveners and posted on the Tribunal's Web site. The notice of determination is published in the *Canada Gazette*.

Remedies and Costs

When the Tribunal determines that a complaint is valid, it may recommend to the government such remedy as it considers appropriate, including:

- that a new solicitation for the designated contract be issued;
- that the bids be re-evaluated;
- that the designated contract be terminated;
- that the designated contract be awarded to the complainant; or
- that the complainant be compensated for lost profits or losts by an amount specified by the Tribunal

By legislation, recommendations are to be implemented to the greatest extent possible by the relevant government institution.

The Tribunal may order, upon request by the complainant, the reimbursement of the complainant's reasonable costs incurred in filing and proceeding with a complaint and/or its reasonable costs incurred in preparing its bid. Where the Tribunal decides that the complaint is not valid, and the government institution requests its costs of defending against the complaint, the Tribunal will consider such requests on merit.

For more information on costs and compensation, please see the Tribunal's *Procurement Costs Guideline* and *Compensation Guidelines* available on the Tribunal's Web site at www.citt-tcce.gc.ca/en/index3_e.

Furthermore, the Tribunal may provide the deputy head of the government institution with its comments and observations on any matter that the Tribunal considers should be brought to the attention of the deputy head in connection with the procurement process.

Further Recourse

The Tribunal's determination may be reviewed by the Federal Court of Appeal upon application.

PROTECTION OF CONFIDENTIAL INFORMATION

Designation of information as confidential

A party wanting portions of the information that it files with the Tribunal to be designated as confidential must submit two versions of the information to the Tribunal:

1. A confidential version containing all the confidential information and labelled "Confidential" on every page that contains confidential information. In addition, all confidential information should be highlighted by using shading, boldface characters or square brackets; and
2. A public version of the same document with the confidential information fully deleted (you may not simply mask or hide the confidential information, it must be fully deleted electronically from under any masking or shading).

In the alternative to filing a public version as described in 2, you may file a public summary of the confidential information. In either case, the public version or the public summary must give the party opposite and the Tribunal sufficient information to understand the nature of the confidential information.

While a party may submit documents marked "Confidential", it does not automatically follow that the information is given a designation as confidential. The Tribunal reserves the right to refuse to accept a confidential designation, in whole or in part. If the Tribunal has concerns about the designation of information as confidential, the party providing the information will be given an opportunity to provide an acceptable explanation of why the designation is appropriate. In these instances, the following may occur:

1. If the Tribunal is satisfied with the explanation provided, the information will be treated as confidential.
2. If the Tribunal is not satisfied with the explanation for the requested designation of confidentiality, and the party fails to provide an acceptable public version, the information submitted as confidential will not be taken into account by the Tribunal and will not be made part of the record.
3. The party providing the information may agree to the information being placed on the public record.
4. The party providing the information may withdraw the information.

More information regarding the designation and protection of confidential information is found in the *Confidentiality Guidelines* available on the Tribunal's Web site at www.citt-tcce.gc.ca/en/index3_e.

Access to Confidential Information

<u>Counsel</u>

Counsel for parties involved in proceedings must submit a completed Notice of Representation, and Declaration and Undertaking of Confidentiality in order to be granted access to any confidential information. In essence, the Declaration and Undertaking is a binding commitment by counsel not to disclose any confidential information received, except to a person granted access by the Tribunal to such information. Parties may object to a request by counsel for access to confidential information. It is the Tribunal's responsibility to grant or deny the request, on such terms as it considers appropriate. Counsel must be independent of the complainant, under no circumstances may counsel obtain access if they are a director, servant or employee of a complainant. Counsel are not allowed to make copies of any confidential information without the express permission of the Tribunal and must, within 10 days of termination of

proceedings, return all protected documents to the Tribunal or destroy them and file with the Tribunal a certificate of destruction.

Government Officials

Potential complainants should be aware that, if the complaint is accepted for inquiry, the Tribunal will officially request the complainant's authorization to release confidential information to the government officials involved with the procurement.

MATTERS NOT FALLING WITHIN THE TRIBUNAL'S JURISDICTION

Non-designated Contracts

Any complaint relating to a contract that is not a "designated contract", as defined above, does not fall within the Tribunal's jurisdiction.

Subcontract Awards

Complaints against subcontract awards are generally not considered, except in very limited circumstances when the award is made by or for the government entity, such as when a contractor acts as a purchasing agent for the Government.

Contract Performance

The Tribunal cannot consider complaints involving performance or administration of the contract, such as a contractor's entitlement to additional compensation or a government department's decision not to exercise its options.

Matters to Be Determined by Other Bodies

The Tribunal does not consider complaints involving matters which, under the law, are to be determined by other bodies.

LINKS TO RELEVANT LEGISLATION AND VARIOUS TRADE AGREEMENTS

Canadian International Trade Tribunal Act

Canadian International Trade Tribunal Rules

Canadian International Trade Tribunal Procurement Inquiry Regulations

Various Trade Agreements

If you have any questions regarding the procurement review process, please contact:

The Registrar
The Canadian International Trade Tribunal
15th Floor
333 Laurier Avenue West
Ottawa, Ontario K1A 0G7

Telephone: 613-990-2452 or 1-855-307-2488
Facsimile: 613-990-2439
E-mail: citt-tcce@tribunal.gc.ca

APPENDIX I
CHECKLIST FOR FILING A COMPLAINT

☐ **Complaint form (or suitable alternative) must include:**
Identity of Complainant

- Company name
- Address
- Telephone number
- E-mail address
- Name and signature of individual authorized to file the complaint on behalf of a company
- Independent counsel information, if applicable

Information on the Procurement

- Solicitation number, or file number
- Contract number, if known
- Estimated contract value
- Product or service being procured
- Federal Supply Classification code, Goods and Services Identification number or NATO stock number, if known
- Relevant times and dates (i.e. issuance of solicitation, bid closing, contract award)

Identity of Government Institution

- Requisitioning authority
- Contracting authority

Elements of the Complaint
Statement of complaint

- Detailed statement of all relevant events and facts in support of complaint
- Relevant times and dates
- Provisions of the applicable trade agreement that have allegedly been breached

Statement of form of relief requested

- Remedy being sought
- Complaint costs and/or bid preparation costs
- Compensation costs
- Postponement of contract award, if applicable

☐ **List of Attachments**

Please make a detailed list of all documents attached to the complaint.

☐ **Inclusion of all relevant documents**

- Any notice published on Buyandsell.gc.ca (the Government of Canada's electronic tendering service)

- All tender documents including the complete solicitation, with all amendments and attachments
- Your bid proposal in full, including the financial and technical proposal
- All related correspondence between the complainant and the government institution including e-mails, letters, faxes, etc.
- Any other written information that relates to any objection made

☐ **Identification of confidential information**

Indicate which information, if any, is confidential by following the instructions for the Designation of Confidential Information (see next page).

☐ **If complaint contains confidential information, include, along with the confidential version, a public version of the confidential information**

☐ **Authorization form, completed and signed**

☐ **If complainant is represented by independent counsel, include:**

- Form I – Notice of Participation (Party)
- Form II – Notice of Representation (Counsel)
- Form III – Declaration and Undertaking (Counsel and Consultant)

☐ **Verification**

Before filing, please verify your complaint and attachments to ensure that no pages or documents are missing.

☐ **Filing the complaint**

Complainants must file electronically in accordance with the Guideline on Filing Documents.

N.B.
The checklist is provided as a guide only and does not replace the requirements set out in the relevant acts, agreements, rules and regulations.

APPENDIX 2
SCHEDULE OF EVENTS IN A 90-DAY INQUIRY

DAY*	ACTION
1	Tribunal is satisfied that the complaint is properly filed. Complaint is acknowledged, parties advised.
6	Complaint is accepted for inquiry. Or, complaint is not accepted for inquiry and the Tribunal issues determination with reasons to follow.
8-12	Notice of inquiry is published in the *Canada Gazette*.
31	Government Institution Report (GIR) received by the Tribunal and sent to the complainant for comment.
38-41	Complainant's comments on the GIR are sent to the Tribunal and forwarded to the government institution.
42-89	Tribunal's deliberations, including, if required a public hearing.
90	Determination of the Tribunal is issued. Reasons will follow.

* Days are approximate.

APPENDIX 3
SCHEDULE OF EVENTS IN A 45-DAY INQUIRY
(EXPRESS OPTION)

DAY*	ACTION
1	Tribunal is satisfied that the complaint is properly filed. Complaint is acknowledged and parties advised.
4	The parties request the express option.
6	Complaint is accepted for inquiry. Express option is granted and the parties are notified. Or, complaint is not accepted for inquiry and the Tribunal issues determination with reasons to follow.
8-12	Notice of inquiry is published in *Canada Gazette*.
16	Government Institution Report (GIR) is received by the Tribunal and sent to the complainant for comment.
22	Complainant's comments on the GIR are sent to the Tribunal and forwarded to the government institution.
23-44	Tribunal's deliberations, including a public hearing as required.
45	Determination of the Tribunal is issued. Reasons will follow.

* Days are approximate.