

Canada-U.S. Blog

LEGAL DEVELOPMENTS AFFECTING CANADA-U.S. CROSS BORDER TRADE

Canada's Procurement Review Procedure Accessible to Small-to-Medium Sized Businesses

By Cyndee Todgham Cherniak on October 2nd, 2015

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Canada has a federal government procurement bid challenge mechanism that has been made somewhat user-friendly to small-to-medium sized businesses. Chapter 10 of the North American Free Trade Agreement and equivalent chapters in other free trade agreements and the WTO Agreement on Government Procurement require that Canada establish a bid challenge mechanism. Canada has done so.

A bid challenge is filed with the Canadian International Trade Tribunal ("CITT") within 10 working days of the date the basis for the complaint became known (e.g., the federal government contract was awarded to another bidder who did not meet the mandatory criteria in the RFQ). This is an important deadline.

The CITT has created a form that Complainants may complete and file. The CITT also has prepared instructions for the completion of the form. These two documents may be completed without the assistance of a lawyer (or with the assistance of a lawyer). The ease of completing a form and the instructions improve the access to justice by small-to-medium sized businesses.

The Instructions also contain a checklist, which is useful to small-to-medium sized businesses who bid on federal government contracts in Canada. This information can be maintained on a file-by-file basis so that it is easier to file a complaint with the CITT should something go wrong.

The Instructions also contain timelines, which inform potential complainants of what to expect and when.

Tags: bid challenge mechanism, bid challenges, Canadian International Trade Tribunal, CITT, NAFTA, procurement, WTO Agreement on Government procurement

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