

LACK OF TRANSPARENCY

Backgrounder

Since March 2007, TPG Technology Consulting (TPG) has tried to use various government mechanisms to find information on the process used by the government to award the ETS contract. Our efforts were consistently opposed by the government's unwillingness to provide all the information or open a real investigation.

Due to the government's clear attempts to stonewall our requests for a full disclosure, TPG has had no choice but to file this lawsuit in order to shed light on this process.

Here are the steps that TPG has taken in order to obtain the information:

PWGSC Access to Information requests:

On April 10th 2007, we requested information from the Public Works and Government Services Canada (PWGSC) ATIP office. On May 7th 2007, the ATIP office informed us that the Department would require a 300 day extension on top of the 30 days initially needed to provide us the information. The Department subsequently refused to do partial releases of information. Requested information included: contacts between the Minister's office and representatives/lobbyists from one of the other bidders, results of the technical and financial review for the bid, any contact/intervention from the Minister's office related to this Request for Proposal and email records from several PWGSC officials related to this issue.

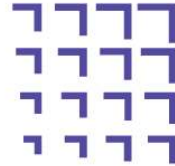
The 330 days time limit extension to provide us the information has passed. The department now tells us that they're "still working on this issue".

Earlier this year we received some of the information we requested, however this was not due to our own ATIP request but through a consultation made by the ATIP office on behalf of another requestor. It was interesting to note that although our own request was made prior to that group's request they seem to have received priority over ours.

Access to Information Commissioner's office:

On August 2nd we appealed to the Office of the Information commissioner and requested that partial information be released during the 300 day extension. This request was denied. While the Treasury Board guidelines recommend partial releases, they are not binding.

Our second request dealt with the PWGSC ATIP office denial of the release of some of the information using the pretext that it was "contrary to the economic interests of Canada". While we were told that the Information Commissioner's office would also deny our appeal in October, they delayed the official response until February. We have since appealed this decision to the Federal Court.



Public Sector Integrity Office:

On April 15th, 2007, the Public Sector Integrity Office (PSIO) was asked to investigate alleged wrongdoings. Their initial response, on June 26th, denied our request and included a number of statements which demonstrated their lack of understanding with regards to the issue. Our reply provided them with the information they needed to move forward. However, on December 12th, the Public Sector Integrity Commissioner informed us that they could not investigate this issue as it was still in front of the Canadian International Trade Tribunal. This information led us to the realization that in order to have the PSIO start an investigation, TPG would need to abandon all legal proceedings. We are unwilling to do so.

Requests to the Minister:

Several letters were sent to the Minister and the Deputy Minister requesting that they open an investigation on this issue. Their replies eventually informed us that they were unwilling to meet and discuss our concerns as the issue was in front of the courts. We have seen recently, and in the media, that other issues in front of the courts had not prevented them from meeting with representatives of the companies involved.

PWGSC debriefing:

When a contract is awarded, unsuccessful bidders are usually given a "debriefing" which enables them to understand why they were not selected. This is not a measure of courtesy but rather a legal requirement.

Procurement rules provide that: "on request of a supplier, whose tender was not selected for award, provide pertinent information to that supplier concerning the reasons for not selecting its tender, the relevant characteristics and advantages of the tender selected and the name of the winning supplier."

Although we requested that a debriefing be held and that information be provided to us, we were not given a chance to have a direct debriefing with a face-to-face meeting which is usually the case and allows for a question and answer session. It is only recently, after an appeal to the Prime Minister, that we were sent some information which is incomplete and does not fully match the information received through other sources.