

## Publisher's Note

2018 — Release 3

Previous release was 2018-2

From Your Library:	
<input type="checkbox"/>	_____

---

Attwater

## Procurement Review: A Practitioner's Guide

---

*Procurement Review: A Practitioner's Guide* is a practical guide to the bid challenge process conducted by the Canadian International Trade Tribunal (CITT), and to issues that arise in procurements conducted by the federal government. It is directed at those "in the trenches" who want to understand the process and how the CITT has interpreted relevant trade agreements. The book provides practical advice for complainants and for government institutions defending against complaints. The book pieces together the CITT's decisions for purposes of elucidating policies governing procurement. It also provides commentary on the CITT's case law.

This release features updates to case law and commentary in Section 2.3.5 (National Security Exception), 2.3.6.1 (Goods Covered by CFTA), 2.3.7.1 (Services Covered by CFTA), 2.3.8.1 (Construction Covered by CFTA), 2.22 (Motions and Requests for a Decision or Order), 2.24 (The CITT Makes Recommendations), 2.28 (Challenging Determinations by the CITT), 3.14 (Principles of Interpretation), and others. Section 2.12 (Canadian Free Trade Agreement), Section 3.3 (Canadian International Trade Tribunal Rules) and the Index have also been updated.

---

THOMSON REUTERS CANADA® Customer Support

1-416-609-3800 (Toronto & International)

1-800-387-5164 (Toll Free Canada & U.S.)

Fax 1-416-298-5082 (Toronto)

Fax 1-877-750-9041 (Toll Free Canada Only)

E-mail [CustomerSupport.LegalTaxCanada@TR.com](mailto:CustomerSupport.LegalTaxCanada@TR.com)

This publisher's note may be scanned electronically and photocopied for the purpose of circulating copies within your organization.

## Highlights

- **The Bid Complaint Process — Initiating an Inquiry** — The CITT reasonably found that a designated contract had been awarded on the basis of a communication from the government agency to the complainant. That the contract was subsequently terminated does not affect the CITT’s jurisdiction to inquire into the complaint. The CITT Act does not require that there be a specific contract in uninterrupted existence while the complaint is active: *Canada (Attorney General) v. The Access Information Agency Inc.*, 2018 FCA 18.
- **The Bid Complaint Process — The CITT Makes Recommendations — The CITT May Recommend a Remedy** — It is open to a government institution to ask the CITT to exercise its discretion to delay the effective date of an adverse decision in order to facilitate judicial review, or for other reasons. Such request must be made before the CITT has rendered its decision and becomes *functus*. Where the CITT has exercised its discretion to delay or not delay the effective date of a decision, a reviewing court will be reluctant to interfere by staying the decision. Failure of an applicant for judicial review to ask the CITT to delay the effect of its decision will increase the difficulty of proving irreparable harm on a motion seeking a stay of the CITT’s decision: *Canada (Attorney General) v. Oshkosh Defence Canada Inc. and Mack Defence LLC*, 2018 FCA 102.
- **Other Procurement Issues — Principles of Interpretation — Solicitation Documents** — The CITT is not bound by the meaning given to words and expressions used in documents prepared by a government institution and may give them a meaning consistent with the wording of the CITT Act in its entire context, which serves the fulfillment of the objects of the Act: *Canada (Attorney General) v. The Access Information Agency Inc.*, 2018 FCA 18.