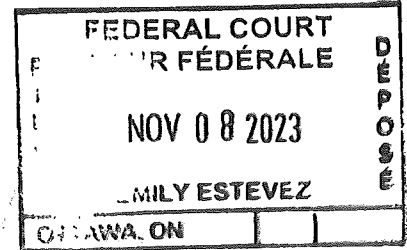


Court File No.: T-2356-23

FEDERAL COURT OF CANADA

BETWEEN:

LINDA SIDOLI



Applicant

- and -

ATTORNEY GENERAL OF CANADA

Respondent

Application under section 18.1 of the
Federal Courts Act, R.S.C. 1985, c. F-7 as amended

NOTICE OF APPLICATION

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Applicant. The relief claimed by the Applicant appears on the following pages.

THIS APPLICATION will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of the hearing will be as requested by the Applicant. The Applicant request that this application be heard at Ottawa, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or a solicitor acting for you must prepare a notice of appearance in Form 305 prescribed by the *Federal Courts Rules* and serve it on the Applicant's solicitors, or where the Applicant is self-represented, on the Applicant, **WITHIN 10 DAYS** after being served with this notice of application.

Copies of the *Federal Courts Rules*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court in Ottawa (telephone 613-992-4238) or at any local office.

**IF YOU FAIL TO OPPOSE THIS APPLICATION, JUDGMENT MAY
BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO
YOU.**

**EMILY ESTEVEZ
REGISTRY OFFICER
AGENT DU GREFFE**

Date: November 8, 2023

Issued by:

(Registry Officer)

Address of local office: Ottawa Local Office
Thomas D'Arcy McGee Building
90 Sparks Street, Main Floor
Ottawa, ON K1A 0H9

TO: The Administrator, Federal Court of Canada
Thomas D'Arcy McGee Building
90 Sparks Street, Main Floor
Ottawa, ON K1A 0H9

AND TO: Attorney General of Canada
Department of Justice Canada
50 O'Connor Street, 5th Floor
Ottawa, ON K1A 0H8

AND TO: Minister of Public Services and Procurement
11 Laurier St, Portage III, Place du Portage
Gatineau, QC K1A 0S5
To the Attention:
Karin Loiselle
Industrial Personnel Security Directorate
Industrial Security Sector

APPLICATION

This Application for judicial review is made by Linda Sidoli pursuant to section 18.1 of the *Federal Courts Act*, R.S.C. 1985, c. F-7 as amended in respect of Public Services and Procurement Canada's ("PSPC") decision to revoke the Applicant's reliability status and to administratively close the Applicant's secret security clearance (the "**Decision**"). The Decision was first communicated to the Applicant on October 18, 2023.

THE APPLICANT MAKES APPLICATION FOR:

1. An Order setting aside the Decision and referring the matter back to PSPC with such directions as this Honourable Court considers appropriate;
2. An Order of mandamus requiring PSPC to reinstate the Applicant's reliability status and/or security clearance;
3. Such further and other procedural relief as may be requested, and this Honourable Court determine to be appropriate, including, but not limited to, such procedural orders that may be necessary regarding scheduling to facilitate the just, most expeditious and least expensive determination of the Application;
4. Awarding the Applicant her costs of this Application in accordance with the *Federal Courts Rules*; and
5. Such further and other relief as the Applicant may request and this Honourable Court may deem just.

THE GROUNDS FOR THE APPLICATION ARE:

A) The Applicant

6. The Applicant, Linda Sidoli, is a Canadian citizen, former civil servant with PSPC and small business person.
7. Ms. Sidoli obtained her reliability status and her secret security clearance while employed in the federal civil service. These clearances were duplicated and recognized under PSPC's contract security program in 2018.

8. These clearances allowed Ms. Sidoli to access protected and classified information on a need to know basis.
9. These clearances allowed Ms. Sidoli to work on PSPC and other Government of Canada contracts that had security requirements to those clearance levels whether as part of an organization that was directly under contract with PSPC or other Government of Canada entities or as a subcontractor to other organizations who were directly under contact with PSPC or other Government of Canada entities.

B) Review for Cause

10. On May 18, 2023, Ms. Sidoli was informed by telephone and then email that PSPC was reviewing her security status for cause on the basis of alleged irregularities associated with bids submitted in response to Task and Solutions Professional Services (TSPS) Request for Supply Arrangement (RFSA) #E60ZT-18TSPS/D and a Temporary Help Services (THS) supply arrangement #EN578-172870/D.
11. Ms. Sidoli was not the bidder respect to these bids but was the person under whose authorization certain corporations submitted bids.
12. The review for cause process was in no way engaged on the basis of any allegation that the Applicant had mishandled protected or classified information or assets and there is no such allegation. Rather, the review for cause was based on the fact that PSPC received incorrect articles of incorporation as part of certain bids submitted in response to the solicitations noted above.
13. Ms. Sidoli fully cooperated with this review process and provided pro-active disclosure of all relevant materials and explained, to the best of her knowledge, how incorrect articles of incorporation may have been provided to PSPC in response to its requests for articles of incorporation, which explanation included information provided by independent witnesses and information obtained from a third-party IT consultant.

14. The information before PSPC also included the contact information of those with whom Ms. Sidoli had worked in the Government of Canada and could speak to her reliability.
15. PSPC made the impugned Decision despite, amongst other things,: a) the abundance of information that explained the situation; b) the fact that Ms. Sidoli did not need to rely on the information included in the incorrect articles of incorporation to participate in the solicitation processes noted above; and c) Ms. Sidoli provided the correct articles of incorporation when asked by PSPC, which was prior to any issue being raised in the context of the procurements.
16. The Decision will have a significant impact on Ms. Sidoli's ability to earn a living and her future employment prospects. Furthermore, the Decision impacts Ms. Sidoli personally as it unfairly and improperly calls into question her ability to maintain the confidentiality of protected and classified information.

C) PSPC's Errors

17. The Applicant submits that PSPC's Decision is unlawful and unreasonable as it results from PSPC:
 - a) improperly exercising jurisdiction and undertaking this review for an improper purpose;
 - b) improperly and unlawfully using the review for cause process to address what may be best described as a procurement or an administrative issue;
 - c) improperly and unreasonably making the Decision despite the fact that there was no allegation that the Applicant had mishandled protected or classified information or assets;
 - d) failing to conduct a proper investigation into this matter by conducting only a superficial analysis that failed to consider the exculpatory information provided by the Applicant and failing to contact individuals known to PSPC and within the Government of Canada who have worked with the Applicant and could comment on her reliability; and

- e) basing its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it, including, but not limited to:
 - i) ignoring the uncontradicted evidence of individuals who provided evidence by way of statutory declarations;
 - ii) ignoring the fact that the Applicant provided the correct articles of incorporation when asked (which was prior to any issue being raised by PSPC in the procurement processes noted above);
 - iii) ignoring the fact that the Applicant did not mishandle any protected or classified information and was not even accused of doing so; and
 - iv) ignoring the efforts undertaken by the Applicant to remediate and remedy any apparent concerns regarding bidding processes, security processes and IT security.

- 18. These errors demonstrate a general failure by PSPC to properly and diligently investigate this matter and consider all materials on its record or that were otherwise available to PSPC through the exercise of a reasonable level of diligence. These errors fundamentally affected PSPC's reasoning and affected the validity and reasonableness of the Decision.

- 19. Furthermore, the Applicant submits that the reasons provided for the Decision are not justified, inadequate and unintelligible in light of the record before PSPC thus making the Decision unreasonable, improper and arbitrary.

- 20. PSPC's Decision is inconsistent with PSPC's exercise of discretion in respect of other similarly situated persons and is arbitrary.

- 21. PSPC's investigation displayed an unreasonable animus towards the Applicant and was designed to prevent her from competing on future solicitations as opposed to being directed at resolving a genuine concern regarding her reliability and/or loyalty to Canada.

22. PSPC denied the Applicant procedural fairness and natural justice.

D) Relevant Statutes and Regulations

23. The Applicant relies on:

- a) the *Interpretation Act*, R.S.C., 1985, c. I-21, as amended;
- b) the *Federal Courts Act*, R.S.C. 1985, c. F-7, as amended;
- c) the *Federal Courts Rules*, SOR/98-106, as amended;
- d) the Contract Security Manual;
- e) the Policy on Government Security;
- f) the Standard on Security Screening;
- g) the Code of Conduct for Procurement; and
- h) such other statutes and regulations as the Applicant may advise and this Honourable Court may permit.

THIS APPLICATION WILL BE SUPPORTED BY THE FOLLOWING MATERIAL:

- 24. The affidavit(s) submitted on behalf of the Applicant to be filed in this proceeding.
- 25. The record before PSPC when it made its Decision and all materials related to the investigation that preceded and informed the Decision.
- 26. Such further and other material as the Applicant may advise and this Honourable Court may permit.

REQUEST FOR MATERIAL IN THE POSSESSION OF PUBLIC SERVICES AND PROCUREMENT CANADA:

THE APPLICANT HEREBY REQUESTS that PSPC transmit to the Applicant and the Registry, in accordance with Rule 318 of the *Federal Courts Rules*, certified copies of:

- a) all materials that were before PSPC or otherwise considered by PSPC with respect to the Decision and the investigation that preceded the Decision;
- b) the investigation file relating to this matter;
- c) all versions of the Contract Security Manual, the Policy on Government Security, the Standard on Security Screening, the Code of Conduct for procurement, or any other policy or manual as they existed from time to time between January 1, 2020 and October 13, 2023 that pertain to this matter; and
- d) all materials related to Task and Solutions Professional Services (TSPS) Request for Supply Arrangement (RFSA) #E60ZT-18TSPS/D, Temporary Help Services (THS) supply arrangement #EN578-172870/D, and ProServices supply arrangement (E60ZT-180024/A-Period 18 (E60ZT-180024/C)) that pertain to this matter, including bidding instructions, bidding requirements and the bid(s) or communications related thereto that are referenced in the Decision.

This request is being made pursuant to Rule 317 of the *Federal Courts Rules*.

Date: November 8, 2023



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