



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Procurement

ORDER

File Nos. PR-2009-080R to
PR-2009-087R, PR-2009-092R to
PR-2009-102R and PR-2009-104R
to PR-2009-128R

Enterasys Networks of Canada
Ltd.

v.

Department of Public Works and
Government Services

*Order issued
Wednesday, June 29, 2011*

IN THE MATTER OF 44 complaints filed by Enterasys Networks of Canada Ltd. pursuant to subsection 30.11(1) of the *Canadian International Trade Tribunal Act*, R.S.C. 1985 (4th Supp.), c. 47;

AND FURTHER TO decisions to conduct inquiries into the complaints pursuant to subsection 30.13(1) of the *Canadian International Trade Tribunal Act*;

AND FURTHER TO determinations of the Canadian International Trade Tribunal made on June 21, 2010, that 40 of the complaints were valid in part;

AND FURTHER TO a decision of the Federal Court of Appeal, which quashed the determinations of the Canadian International Trade Tribunal made on June 21, 2010, and referred the matter back to the Canadian International Trade Tribunal with the direction that the complaints be dismissed for want of jurisdiction.

BETWEEN

ENTERASYS NETWORKS OF CANADA LTD.

Complainant

AND

**THE DEPARTMENT OF PUBLIC WORKS AND GOVERNMENT
SERVICES**

**Government
Institution**

ORDER

The Canadian International Trade Tribunal hereby dismisses the following complaints for want of jurisdiction:

- PR-2009-080—Solicitation No. M9010-104482/A (RVD 631)
- PR-2009-081—Solicitation No. W8474-10BF32/A (RVD 640)
- PR-2009-082—Solicitation No. 31184-092762/B (RVD 641)
- PR-2009-083—Solicitation No. 45045-090096/A (RVD 643)
- PR-2009-084—Solicitation No. WA050-106225 (RVD 644)
- PR-2009-085—Solicitation No. 21120-108465/A (RVD 645)
- PR-2009-086—Solicitation No. 9K001-101037/A (RVD 647)
- PR-2009-087—Solicitation No. 9K001-101037/B (RVD 648)
- PR-2009-092—Solicitation No. 45045-090105/A (RVD 650)
- PR-2009-093—Solicitation No. 45045-090104/A (RVD 651)
- PR-2009-094—Solicitation No. C1111-090828/A (RVD 653)

- PR-2009-095—Solicitation No. 45045-090101/A (RVD 662)
- PR-2009-096—Solicitation No. W6369-10DE70/A (RVD 663)
- PR-2009-097—Solicitation No. 45045-090122/A (RVD 666)
- PR-2009-098—Solicitation No. T8086-090909/A (RVD 672)
- PR-2009-099—Solicitation No. U6158-097064/A (RVD 680)
- PR-2009-101—Solicitation No. EN869-103932/A (RVD 684)
- PR-2009-102—Solicitation No. M9010-105184/A (RVD 670)
- PR-2009-104—Solicitation No. M9010-105182/A (RVD 669)
- PR-2009-105—Solicitation No. 21120-104931/A (RVD 671)
- PR-2009-106—Solicitation No. A0416-094512/A (RVD 678)
- PR-2009-107—Solicitation No. W6369-10P5FF/A (RVD 688)
- PR-2009-109—Solicitation No. 59017-100012/A (RVD 691)
- PR-2009-110—Solicitation No. W6369-10P5GG/B (RVD 685)
- PR-2009-111—Solicitation No. W8484-108305/A (RVD 692)
- PR-2009-112—Solicitation No. W6369-10P5GM (RVD 693)
- PR-2009-113—Solicitation No. 23240-103042/A (RVD 697)
- PR-2009-114—Solicitation No. EN869-103849/A (RVD 702)
- PR-2009-115—Solicitation No. 23240-103817/A (RVD 704)
- PR-2009-116—Solicitation No. A0416-094516/A (RVD 706)
- PR-2009-117—Solicitation No. A0416-094516/B (RVD 707)
- PR-2009-119—Solicitation No. FP945-090053/A (RVD 712)
- PR-2009-120—Solicitation No. C1111-090957/A (RVD 714)
- PR-2009-122—Solicitation No. B8219-090643/A (RVD 710)
- PR-2009-123—Solicitation No. 84084-090232/A (RVD 708)
- PR-2009-124—Solicitation No. M9010-105183/A (RVD 717)
- PR-2009-125—Solicitation No. 24062-090345/A (RVD 719)
- PR-2009-126—Solicitation No. K7C20-090674/A (RVD 720)
- PR-2009-127—Solicitation No. C1111-090959/A (RVD 726)
- PR-2009-128—Solicitation No. 84084-090254/B (RVD 699)

Accordingly, the Canadian International Trade Tribunal hereby revises its preliminary award of costs in relation to the complaints. Pursuant to section 30.16 of the *Canadian International Trade Tribunal Act*, the Canadian International Trade Tribunal awards the Department of Public Works and Government Services its reasonable costs incurred in responding to the complaints, which costs are to be paid by Siemens Enterprise Communications Inc. (formerly Enterasys Networks of Canada Ltd.).¹ In accordance with the *Guideline for Fixing Costs in Procurement Complaint Proceedings*, the Canadian International Trade Tribunal's preliminary indication of the level of complexity for these complaint cases is Level 3, and its preliminary indication of the amount of the cost award is \$4,100. If any party disagrees with the preliminary indication of the level of complexity or the preliminary indication of the amount of the cost

1. As a result of its amalgamation with other corporations on October 1, 2010, Enterasys Networks of Canada Ltd. no longer exists on its own, and its successor corporation conducts business under the name Siemens Enterprise Communications Inc.

award, it may make submissions to the Canadian International Trade Tribunal, as contemplated by the *Guideline for Fixing Costs in Procurement Complaint Proceedings*. The Canadian International Trade Tribunal reserves jurisdiction to establish the final amount of the award.

Serge Fréchette
Serge Fréchette
Presiding Member

Diane Vincent
Diane Vincent
Member

Stephen A. Leach
Stephen A. Leach
Member

Gillian Burnett
Gillian Burnett
Acting Secretary