



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Procurement

DECISION AND ORDER

File No. PR-2019-029

Heddle Marine Services Inc.

*Decision made
Thursday, August 29, 2019*

*Decision issued
Thursday, August 29, 2019*

IN THE MATTER OF a complaint filed pursuant to subsection 30.11(1) of the *Canadian International Trade Tribunal Act*, R.S.C., 1985, c. 47 (4th Supp.).

BY

HEDDLE MARINE SERVICES INC.

AGAINST

THE DEPARTMENT OF PUBLIC WORKS AND GOVERNMENT SERVICES

DECISION

CONSIDERING that the complaint made by Heddle Marine Services Inc. meets the requirements of sections 6 and 7 of the *Canadian International Trade Tribunal Procurement Inquiry Regulations* (the “*Procurement Inquiry Regulations*”);

NOTING however that the documents pertaining to the solicitation in issue (Letter of Interest/Invitation to Qualify F7013-190036/B) refer at its paragraph 4.2.1 to the fact that a national security exemption would have been issued in regard to the procurement process, but do not include a copy of the letter required by subsection 10(3) of the *Procurement Inquiry Regulations*;

MINDFUL that subsection 10(2) of the *Procurement Inquiry Regulations* requires the Canadian International Trade Tribunal (the “Tribunal”) to dismiss a complaint in respect of which a national security exemption set out in various trade agreements, including the *Canadian Free Trade Agreement*, is properly invoked by the relevant government institution, as long as the requirements of subsection 10(3) of the *Procurement Inquiry Regulations* are met;

CONSIDERING however that there is currently no information on file which would allow the Tribunal to independently verify that any national security exemption has been properly invoked in regard to the solicitation in issue as per the requirements of subsection 10(3) of the *Procurement Inquiry Regulations*;

CONSIDERING that Heddle Marine Services Inc. requested various remedies, including interlocutory remedies, and that the only remedy that the Tribunal can grant at this time is a postponement of award of contract order pursuant to subsection 30.13(3) of the *Canadian International Trade Tribunal Act* (the “*Act*”), and that other requested remedies, including interim relief, can only be envisaged under section 30.15 of the *Act* upon completion of a full inquiry;

AND CONSIDERING that, further to an inquiry by the Tribunal on August 27, 2019, Heddle Marine Services Inc. confirmed to the Tribunal on August 27, 2019, that it wished to pursue its complaint despite the issuance of Amendment 004 to the solicitation issued on August 25, 2019;

The Tribunal, pursuant to subsection 30.13(1) of the *Act*, has decided to conduct an inquiry into the complaint;

The Tribunal hereby denies Heddle Marine Services Inc.’s request under subsection 30.13(3) of the *Act* for an order postponing the contract award. The solicitation in issue concerns a Letter of Interest/Invitation to Qualify in which the awarding of a contract is not envisaged within the 90- or 135-day time frames provided

under paragraphs 12(a) or (c) of the *Procurement Inquiry Regulations* for the Tribunal to complete its inquiry and recommend final remedies if the Tribunal finds the complaint to be valid or valid in part;

The Tribunal hereby denies Heddle Marine Services Inc.'s requests for all other interlocutory remedies at this time, because the *Act* does not give jurisdiction to the Tribunal to grant such remedies as interim relief at this preliminary stage of inquiry.

Jean Bédard

Jean Bédard, Q.C.

Presiding Member