



Canadian International
Trade Tribunal

Tribunal canadien du
commerce extérieur

CANADIAN
INTERNATIONAL
TRADE TRIBUNAL

Procurement

ORDER

File PR-2024-007

Nation Clean Energy Inc.

v.

Department of Public Works and
Government Services

*Order issued
Tuesday, June 4, 2024*

IN THE MATTER OF a complaint filed by Nation Clean Energy Inc. pursuant to subsection 30.11(1) of the *Canadian International Trade Tribunal Act*;

AND FURTHER TO a decision to conduct an inquiry into the complaint pursuant to subsection 30.13(1) of the *Canadian International Trade Tribunal Act*;

AND FURTHER TO the withdrawal of the complaint by Nation Clean Energy Inc.

BETWEEN

NATION CLEAN ENERGY INC.

Complainant

AND

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

**Government
Institution**

ORDER

WHEREAS National Clean Energy Inc. (NCE) filed the above-mentioned complaint on May 7 and May 10, 2024, with respect to a procurement made by the Department of Public Works and Government Services (PWGSC) for the supply and delivery of up to 950,000 litres of finished, blended marine fuel to Vancouver and Victoria, British Columbia (solicitation WS4474604832) on behalf of the Canadian Coast Guard;

AND WHEREAS the Canadian International Trade Tribunal decided, on May 17, 2024, pursuant to subsection 30.13(1) of the *Canadian International Trade Tribunal Act* (CITT Act) and subsection 7(1) of the *Canadian International Trade Tribunal Procurement Inquiry Regulations* (Regulations), to inquire into one of the two grounds of the complaint, that is, NCE's allegation that PWGSC put NCE at a competitive disadvantage during the retendering process and evaluation procedures of the reissued solicitation;

AND WHEREAS the Tribunal decided, on May 17, 2024, not to conduct an inquiry on the other ground of complaint, that is, NCE's allegation that PWGSC should have accepted NCE's corrected bid price during the first solicitation process, as the Tribunal found that there was no reasonable indication that the procurement had not been conducted in accordance with the applicable trade agreements;¹

AND WHEREAS, on May 31, 2024, NCE notified the Tribunal that it was withdrawing its complaint;

AND WHEREAS subsection 30.13(5) of the CITT Act provides that the Tribunal may cease conducting the inquiry;

¹ As explained in *Francis H.V.A.C. Services Ltd. v. Canada (Public Works and Government Services)*, 2017 FCA 165, bidders cannot make material corrections or amend their bids after the bid's closing, because doing so would constitute bid repair, which would constitute a breach of the trade agreements.

THEREFORE, pursuant to subsection 30.13(5) of the CITT Act, the Tribunal decided, on June 3, 2024, to cease its inquiry.

Each party will bear its own costs.

Susana May Yon Lee

Susana May Yon Lee

Presiding Member