


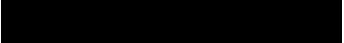



IN THE UNITED STATES COURT OF FEDERAL CLAIMS
BID PROTEST

ACTIONET, INC.,)	
)	
Plaintiff,)	
)	
v.)	No. 19-388C
)	(Senior Judge Bruggink)
THE UNITED STATES,)	
)	
Defendant,)	
)	(Redacted Version)
and)	
)	
ACCENTURE FEDERAL SERVICES, LLC,)	
)	
Intervenor.)	

NOTICE OF PENDING CONTRACT ACTION

Defendant, the United States, respectfully provides notice of the Department of Energy’s (DOE) intention to issue  task orders under the DOE Office of the Chief Information Officer (OCIO) Business Operations Support Services (CBOSS) Blanket Purchase Agreement (BPA),  .

As explained in the attached Declaration of Max Everett, the Chief Information Officer for DOE, the agency has determined that the issuance of these task orders is in the best interests of the Federal Government and DOE, because immediate performance under these task orders will minimize the risk and operational impact to DOE’s mission and demonstrate the best stewardship of taxpayer dollars. Without these new orders, none of the work under the CBOSS BPA can begin, including work under the two orders already issued to Accenture Federal Services. Work under the pending task orders is needed to enable critical modernization projects to move forward .

DOE's pending contract actions do not affect the end date for ActioNet, Inc.'s performance through April 12, 2019, under its existing contract with DOE. In addition, DOE will be issuing an extension of services in accordance with Federal Acquisition Regulation 52.217-8 for two months to ActioNet, Inc. As such, there is no need to modify the schedule set forth in the Court's March 18, 2019 order.

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

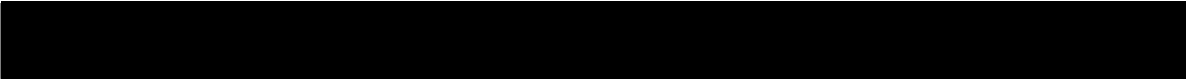
ROBERT E. KIRSCHMAN, JR.
Director

s/ Deborah A. Bynum
DEBORAH A. BYNUM
Assistant Director

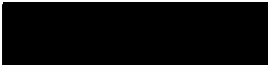
s/ Shari A. Rose
SHARI A. ROSE
Senior Trial Counsel
Commercial Litigation Branch
Civil Division, Department of Justice
P.O. Box 480
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 305-1265
Facsimile: (202) 514-8640
E-mail: Shari.Rose@usdoj.gov

Dated March 19, 2019

Attorneys for defendant



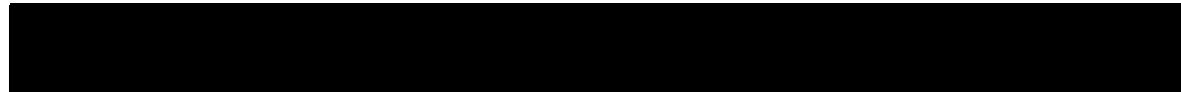
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DECLARATION OF MAX EVERETT

I, Max Everett, declare the following to be true and correct:

1. I am the Chief Information Officer (CIO) for the U.S. Department of Energy (Department). I lead the information technology (IT) infrastructure and services that support over 15,000 Federal employees and others supporting the headquarters and Departmental leadership. I report directly to the Secretary and Deputy Secretary of Energy. I have over 20 years of technology experience and have worked in Federal IT leadership roles as a Federal employee or contractor for most of the last fifteen years. My office, the Office of the Chief Information Officer (OCIO), provides IT support and cybersecurity oversight to the Department's diverse range of portfolios, including nuclear security, open science research, power administration, and environmental management. I am also the Department's Senior Agency Official for Risk Management.



2. The procurement for a blanket purchase agreement (BPA) for the CIO Business Operations Support Services (CBOSS) was developed by my office as the ordering vehicle for a majority of the IT services for the Department. The critical performance objectives of CBOSS include (1) moving from a staff augmentation model to a managed services model of providing IT services; (2) enhancing the Department's cybersecurity posture; and (3) maximizing use of cloud-based services through a large-scale shift in modernizing and migrating the current IT service environment to a cloud-based environment.

3. Modernizing the Department's IT services, as envisioned under CBOSS, is of critical importance because many of the Department's critical legacy systems are operating near, at, or beyond end-of-life status, and was directed by the Administration in the Report to the President on Federal IT Modernization, published December 13, 2017. Failure to modernize these existing systems exposes the Department to potential loss of data, endangers essential capabilities, and fails to protect the Department's systems, including national security systems, from persistent and evolving cybersecurity threats.

4. The size, scope, and complexity of work currently performed by ActioNet is not comparable to the work that will be performed under CBOSS. CBOSS contemplates a complete change in how the Department scopes, manages, and measures performance on IT services and cybersecurity tasks. This planned change has already required OCIO to pursue new training and support for technical managers of the orders for CBOSS.

5. I have directed our Procurement office to draft and issue an extension of services in accordance with Federal Acquisition Regulation (FAR) 52.217-8 for two months to ActioNet, as has been our intention. This is necessary for the ongoing operations that ActioNet will continue to provide, until we can complete an orderly transition to CBOSS.

6.

7. I determined that the issuance of these task orders is in the best interests of the Federal Government and the Department, because immediate performance under these task orders will minimize the risk and operational impact to our mission, as well as demonstrate best stewardship of taxpayer dollars.

8. Without these new task orders, none of the work under CBOSS can begin, including the task orders already issued. My emphasis here is not the monetary value of particular orders, but the scope of actual work to be done. The initial two orders were entailed for the evaluation, optimization, and improvement of services during the transition process. That work is irrelevant without the active move of services to the new contractors performing them.

9. The intended task orders relate to critical OCIO responsibilities, and are inseparable from the CBOSS transition. They include:

[REDACTED]

[REDACTED]

10. Immediate work on these task orders, as well as the two task orders previously issued to Accenture is necessary, because none of the work, including the initial task orders or shift to managed services, can begin without these additional orders. The initial orders were never intended by operational staff to stand alone as isolated or separable work. The initial orders focused on the needs for change in services and improvement. Without the additional orders, all of the work on CBOSS will be at a complete stop. No transitional activities will move forward

11. No new modernization projects will be able to move forward until work commences on the [REDACTED] task orders that will be issued this week. Last year, we completed an initial migration of workloads to the cloud by a vendor other than ActioNet, because ActioNet was not capable of conducting that work efficiently or effectively. Without performance under CBOSS, these cloud workloads will not have adequate management or [REDACTED] contractor support. The Department will not be able to execute on our Technology Management Fund project to accelerate adoption of more secure and efficient cloud email across the Department. The Department will not be able to move additional workloads to the cloud and will incur the additional costs of supporting our existing legacy systems. When the Department was initially awarded the funds for these projects in 2018, ActioNet was given the opportunity to submit a

[REDACTED]

proposal to complete this work. ActioNet was unable to offer a timely or appropriately scoped response. The work has been on hold for over six months until the CBOSS vehicle was available.


12. [REDACTED]

[REDACTED]

13. ActioNet's performance gap is widening. Last week, I learned that a number of ActioNet [REDACTED] contractors will be leaving the contract by March 29th. I understand this is common in a contract transition period. However, I also learned that ActioNet has directed that backfills are on hold, and departing staff work will be assigned to the remaining staff members. This will make it impossible for ActioNet to continue existing work at full capability and capacity, [REDACTED]

[REDACTED]

I declared under penalty of perjury that the foregoing is true and correct. Executed this 19th day of March, 2019 in Washington, DC



MAX EVERETT
Chief Information Officer, U.S. Department of Energy