

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

BID PROTEST

CACI, INC.—FEDERAL)	
)	
<i>Plaintiff,</i>)	
)	
v.)	No. _____
)	
THE UNITED STATES,)	(Filed Under Seal)
)	
<i>Defendant.</i>)	

COMPLAINT

Pursuant to 28 U.S.C. § 1491(b), Plaintiff CACI, Inc.—Federal (“CACI”), by its undersigned counsel, submits this pre-award bid protest Complaint seeking preliminary¹ and permanent injunctive relief and declaratory relief. CACI protests the decision by the United States Department of the Army (the “Army” or the “Agency”) to exclude CACI from competition under Request for Proposals No. W15P7T-23-R-0001 (the “RFP” or “Solicitation”).

INTRODUCTION

1. CACI brings this action to protest the Army’s exclusion of CACI from the Army’s Common Hardware Systems 6th Generation (“CHS-6”) procurement. The Army excluded CACI on the basis of an alleged “unfair competitive advantage” associated with CACI’s use of a former government employee, [REDACTED], as a consultant on pre-Solicitation and pre-proposal aspects

¹ Plaintiff has communicated, through counsel, to the Government its intention to seek preliminary injunctive relief. In response, the Department of Justice has indicated that the Government will agree to a voluntary stay until June 16, 2023. Plaintiff reserves the right to seek a preliminary injunction and a temporary restraining order should it become necessary.

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of CHS-6. While in government, and up until April 2019, [REDACTED] had worked on a prior iteration of the CHS procurement, CHS-5, but he had no involvement whatsoever in the next generation procurement, CHS-6.

2. As set out below, the Army's exclusion determination was based on an incomplete and dilatory investigation that dragged on for nearly one year. As CACI would later learn, the Army did not present CACI its actual concerns, much less with a reasonable opportunity to respond to the Army's concerns or to mitigate any conflicts that might have existed. This violated the law.

3. In fact, the Army's concerns were unfounded—which CACI would have established had it been confronted with them prior to the exclusion determination, which the Army did not issue until one hour before the CHS-6 Solicitation was officially released. For all of these reasons, the investigation and exclusion determination were arbitrary and capricious and violated the standards spelled out in the Federal Acquisition Regulation ("FAR"), subpart 9.5, as well as fundamental elements of due process as required by the Administrative Procedure Act. Because the exclusion determination was arbitrary, capricious, and in violation of law, the Agency's decision to exclude CACI from the competition violated its obligation to use full and open competition under the Competition in Contracting Act.

The CHS-6 Procurement

4. Under the CHS-6 Solicitation, the Agency seeks to procure Information Technology hardware through this, the sixth generation of its CHS contracts. The Government anticipates awarding CHS-6 as a 10-year contract with a maximum value of \$7.9 billion. The incumbent contractor, General Dynamics Mission Solutions ("GDMS") or an affiliate, has held

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the five prior generations of CHS contracts for a period spanning 28 uninterrupted years and did not face competition for the work, at least in the prior generation, CHS-5.

5. CACI sought to bring competition to the CHS program and began participating in the process leading up to CHS-6. This included participating in a “one-on-one” meeting with the Agency’s contracting officer, [REDACTED], and a host of other government personnel in October 2021. Among the members of CACI’s team at that meeting was the retired former government official—[REDACTED]—whom CACI had retained as a consultant to obtain insight into how the government works apropos of C4ISR procurements. Neither the contracting officer, nor the other government officials present, objected to their former colleague, [REDACTED], participation in that meeting, even though they all knew him well. [REDACTED] status as a member of CACI’s CHS-6 team raised no red flag, set off no alarm, and precipitated no OCI investigation.

6. Nearly six months passed before the contracting officer made a generic inquiry of CACI about [REDACTED] involvement (he had ceased to work for CACI three months prior to that inquiry). In doing so, the contracting officer did not raise any specific hard facts or concerns about [REDACTED], including any questions pertaining to his credibility.

7. CACI responded to the Government’s inquiry with specific evidence that [REDACTED] had not provided CACI with any prohibited information, that CACI had excluded [REDACTED] from any discussions regarding pricing, and that [REDACTED] was not involved in CACI’s CHS-6 proposal preparation. Indeed, at this point, three months had passed since [REDACTED] had ceased consulting for CACI and it would be another six months before the Army issued the CHS-6 Solicitation. CACI also noted that [REDACTED] did not have access to or involvement in CHS-6—one of many

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undisputed facts—and that any prior knowledge he had of CHS-5 would in any event not be useful to CHS-6, which in CACI’s view differed substantially from CHS-5.

8. An additional four months of silence followed, during which CACI sought but received no substantive updates or requests for additional information from the contracting officer. Then, on August 24, 2022, the contracting officer presented CACI with a three-page “preliminary determination” announcing his intent to exclude CACI from CHS-6. This scant notice presented no hard facts, was accompanied by no documents, and provided no hint of any concern with [REDACTED] or CACI’s credibility. CACI responded on September 6, 2022, again asserting a multitude of uncontroverted hard facts and specific evidence establishing no unfair competitive advantage was obtained from the Company’s affiliation with [REDACTED].

9. Ultimately—nearly a year after the October 2021 one-on-one meeting—on the afternoon of October 7, 2022, the contracting officer excluded CACI from competition for CHS-6 on the basis of its use of [REDACTED] as a consultant. The exclusion determination provided to CACI was yet again a scant three plus pages, was again devoid of hard facts and had no supporting documentation attached. Barely an hour later, the contracting officer issued the formal Solicitation for CHS-6.

10. In the skeletal October 7, 2022, final exclusion determination the contracting officer shared with CACI, the contracting officer concluded glibly “*at this time*, I do not find it possible to mitigate the unfair competitive advantage, or appearance thereof” (emphasis added) and chided CACI for not having submitted a mitigation plan for review. In a far more voluminous (but undisclosed to CACI) 25-page final exclusion determination dated October 7, 2022, which CACI did not see until the Army included it in the agency record in the protest before the Government

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Accountability Office (GAO), the contracting officer stated “there is no way to effectively mitigate the unfair competitive advantage *at this point*” (emphasis added). That is a choice observation. If CACI could no longer mitigate any unfair competitive advantage as of October 7, 2022, that was solely the result of the contracting officer’s unreasonably delayed investigation, his withholding of material information, and his total lack of substantive communication with CACI throughout the investigation. Incomprehensibly, the contracting officer also completely ignored uncontradicted evidence that CACI neither received nor wanted any GDMS proprietary information.

11. CACI timely protested its exclusion at the Government Accountability Office (“GAO”). In the course of that protest, CACI learned a great deal more about the Agency’s investigation than the contracting officer had revealed to CACI during the investigation itself. Only then did CACI learn the underlying facts on which the Army had relied and the true reasons for CACI’s exclusion.

12. CACI was already concerned that the Agency’s investigation was not conducted promptly, given that nearly six months passed after the one-on-one meeting occurred before the contracting officer made any inquiry to CACI about [REDACTED] participation and that it took nearly a full year for the investigation to culminate in a three-page exclusion notice.

13. The underlying investigation record confirmed the Agency did not promptly investigate the supposed unfair competitive advantage. The investigation the contracting officer performed of [REDACTED] alleged conflict was the polar opposite of what the FAR requires. The FAR requires contracting officers to identify and evaluate potential conflicts as early in the acquisition process as possible (FAR 9.504(a)), and to avoid unnecessary delays (FAR 9.504(d)).

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It also requires that before excluding a prospective offeror, the contracting officer must notify the contractor, provide the reasons therefor, and allow the contractor a reasonable opportunity to respond (FAR 9.504(e)). The contracting officer violated every one of these fundamental FAR requirements, rendering the investigation and determination indefensible.

14. Specifically, while the Agency claimed that its concerns stemmed from the one-on-one meeting in October, in reality the GAO protest revealed the Agency did nothing until the incumbent, GDMS, demanded the Agency exclude CACI in December 2021. Even then, the record remains devoid of any meaningful activity until mid-February 2022, when the contracting officer issued questions to one current and one former GDMS employee and a handful of government personnel. When the contracting officer finally launched an investigation, among his initial interviewees were current and former GDMS personnel who worked on the CHS-5 incumbent contract. FAR 9.506(a) lists numerous non-government sources of information a contracting officer may consider in the early stages of an OCI investigation. A competitor is not one of those sources. Yet the contracting officer relied heavily and without question on information provided by GDMS in excluding CACI.

15. The record further shows that the contracting officer had effectively concluded the collection of evidence by mid-March and had made up his mind on the issue well prior to contacting CACI and [REDACTED], which he finally did on April 18, 2022.

16. Even then, when he finally contacted CACI and [REDACTED], and despite having already interviewed a number of GDMS and government personnel, the contracting officer only asked very generic questions of CACI and [REDACTED], did not reveal his actual specific concerns, did not provide any documents to suggest specific concerns, and did not provide CACI or [REDACTED]

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any opportunity to address or rebut assertions made by earlier interviewees or the contracting officer's actual concerns.

17. CACI and [REDACTED] responded on May 3, 2022, and from that point forward, the contracting officer's investigation was effectively complete—only three documents appear in the GAO Agency Report index to the exclusion determination after this point and they added nothing of substance supporting the exclusion determination.

18. The evidence provided in the GAO protest reveals that the contracting officer did not investigate or resolve the matter promptly; that he withheld material information from CACI, depriving it of the opportunity to respond; and that he simply got it wrong on numerous issues of fact and law.

The Contracting Officer's Hidden Determination

19. The FAR requires that, before excluding a contractor, the contracting officer “shall notify the contractor, provide the reasons therefor, and allow the contractor a reasonable opportunity to respond.” FAR 9.504(e). The contracting officer violated this requirement.

20. On August 24, 2022, the contracting officer sent CACI a three-page letter notifying it of its proposed exclusion. That letter listed reasons only in staccato outline form and omitted any discussion of hard facts underlying the findings and determination. Worse, the contracting officer's letter to CACI wholly omitted key information on which he relied in excluding CACI.

21. In fact, the GAO protest revealed the contracting officer had developed a 39-page single-spaced internal “Contracting Officer Analysis and Decision” dated August 24, 2022—the same date as the three-page preliminary exclusion letter to CACI—accompanied by dozens of exhibits. The contracting officer never shared the critical substance of this document with CACI

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during the investigation and omitted key elements of this document from the three-page letter he sent to CACI the same day. Only after seeing the 39-page document in the GAO protest's agency record did CACI begin to learn the real reasons for its exclusion. The contracting officer's actions were the precise opposite of what the FAR requires. The CO's failure to abide by the requirements of the FAR—by withholding the true reasons for his decision to exclude CACI—denied CACI its right to a reasonable opportunity to respond.

22. The documents produced by the government in the GAO protest revealed that the contracting officer's concerns were unfounded. His failure to advise CACI of them and obtain CACI's and [REDACTED] input render his decision-making arbitrary and capricious.

23. The GAO record reveals that in mid-March the contracting officer had formed and harbored (but did not reveal to CACI or [REDACTED]) suspicions about [REDACTED] credibility based on his demonstrably incorrect belief that [REDACTED] had occupied a "covered" position while in government under Section 847 of the National Defense Authorization Act of 2008 ("Section 847"). From there the contracting officer decided he would not believe [REDACTED]—no matter what [REDACTED] said—and that he would then use [REDACTED] purported lack of credibility, without more, to disqualify CACI.

24. [REDACTED]

25. Despite these deep, serious, but legally flawed concerns, the contracting officer did *not* raise any of these issues with CACI or [REDACTED] when he finally reached out to them in April

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2022. Nor did he raise them with the actual Agency experts in the ethics office despite being in touch with them as well.

26. As it turns out, the contracting officer's undisclosed concerns about [REDACTED] credibility were based largely on the contracting officer's erroneous belief that [REDACTED] was a "covered Department of Defense official" required to obtain a post-government employment ethics opinion prior to accepting compensation from a Department of Defense contractor under Section 847. The contracting officer's incorrect application of Section 847 was based on two material errors.

27. First, in his investigation, the contracting officer had obtained the wrong position description for [REDACTED].

28. One of the few items in the agency record following CACI's May 3, 2022 response to the contracting officer's request for information to CACI shows that the contracting officer went back to the personnel office in July 2022 to seek [REDACTED] actual position description. The personnel office, however, provided an incorrect position description.

29. In the course of the GAO protest, [REDACTED] provided his actual position description, which made it clear that [REDACTED] held a different position than the contracting officer attributed to him and that he was not a "covered Department of Defense official" under Section 847. Had the contracting officer simply asked [REDACTED] for this information during the investigation, [REDACTED] would have disabused the contracting officer of his error. Inexplicably, the contracting officer failed to present his concerns regarding Section 847 to [REDACTED] or CACI.

30. Second, the contracting officer erroneously believed that [REDACTED] service on a Source Selection Advisory Committee ("SSAC") qualified him as a "covered Department of

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Defense official” under Section 847. An SSAC member, however, is an expressly defined role which is decidedly *not* among the enumerated positions in Section 847.

31. The contracting officer left yet another vital path on this issue unexplored: the Agency ethics office, the experts on applying Section 847.

32. In fact, the contracting officer was in contact with the Agency ethics office to inquire about ██████ in March 2022, but failed to raise his concerns about ██████ compliance with Section 847.

33. In contacting the ethics office, the contracting officer learned that ██████ had made an inquiry of the ethics office in December 2021. The contracting officer misconstrued ██████ outreach to the ethics office as indicating ██████ was trying to cover his tracks and that, in the course of this outreach, he concealed the fact that he was already working for CACI.

34. This was a preposterous conclusion for many reasons, not the least of which was that ██████ had appeared with CACI in front of the contracting officer and a host of his former government colleagues at the one-on-one meeting in October 2021. The contracting officer also knew that ██████ appeared at a widely attended government-industry trade show the following month—wearing a CACI shirt. ██████ broadcastings of his affiliation with CACI were hardly the actions of someone trying to mask their role with CACI.

35. Despite ██████ open affiliation with CACI, the contracting officer did not confront ██████ about these concerns. Instead, he assumed the worst based on an extremely flawed investigation that did not include input from the most important source ██████ himself. There was no good reason not to do so—none of these issues have any bearing on CHS-6 source selection information and in no way implicate GDMS or any of its information. The issues related

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to ██████ seeking ethics guidance were specific to ██████. Yet the contracting officer ignored him as the primary source.

36. Had the contracting officer bothered to ask ██████ about his outreach to the ethics office in his April 2022 letter to ██████ or at any other point in the investigation, he would have learned that ██████ and CACI were in discussions in late 2021 about ██████ becoming a CACI employee as opposed to simply a consultant. Given this potential change in status, ██████ elected to consult the ethics office, in part because his attempts to gain advice from the ethics office when he departed government in 2019 were unfulfilled.

37. ██████ also would have informed the contracting officer that by January 2022 he had decided to fully retire and he declined to work for CACI—effectively ending any role with CACI that month and prompting him to so inform the ethics office.

38. The contracting officer's failure to seek information from ██████ related to his concerns rendered his findings and conclusions arbitrary and capricious and in violation of the FAR and other applicable law. Likewise, his inexplicable failure to ask the ethics office to validate his ill-informed assumptions about Section 847 was a fatal error and can only support the conclusion that he did not want to risk receiving a view contrary to those he had already formed.

39. While ██████ interaction with the ethics office and his compliance with Section 847 have no direct bearing on the question of whether CACI obtained an unfair competitive advantage, the contracting officer used his erroneous conclusions as a springboard to disbelieve ██████. While his decision to disbelieve ██████ lacked a rational basis, he did not present any justification for disregarding CACI's position, when its Vice President of Capture provided an uncontroverted sworn statement substantiating what ██████ had stated. In so doing, the

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contracting officer ignored otherwise uncontroverted evidence and sworn evidence presented by CACI and [REDACTED] that demonstrated no unfair competitive advantage was obtained.

40. This *undisputed* evidence included the following:

- a. [REDACTED] did not provide CACI any GDMS proprietary information, whether related to cost and pricing or anything else.
- b. CACI did not request, and [REDACTED] did not provide CACI, any proprietary, non-public, or competitively sensitive information about CHS-4 or CHS-5.
- c. CACI was cognizant of its obligations to avoid conflicts of interest and took numerous steps to do so including that CACI excluded [REDACTED] from its CHS-6 cost and pricing proposal preparation.
- d. CACI did not want or obtain CHS-4 or CHS-5 cost and pricing information because CACI regarded that as off limits as well as outdated and irrelevant to the next generation CHS-6 contract.
- e. [REDACTED] ceased supporting CACI altogether in January 2022, just as the Army released a draft solicitation for CHS-6, more than eight months before the Army released the final CHS-6 Solicitation and more than ten months prior to the submittal date for proposals.

41. The contracting officer's rationale for disregarding those hard facts is left to the imagination. The exclusion determination simply omits any discussion of them. As a result, the determination was tied entirely to the contracting officer's negative assessment of [REDACTED] credibility. Notably, despite making no findings regarding CACI's credibility, the contracting

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officer nevertheless completely ignored the uncontroverted evidence, including sworn statements, provided by CACI.

42. Based solely on this—and without a shred of hard facts in support—the contracting officer leapt to the assumption that [REDACTED] shared GDMS proprietary information with CACI, supposedly on the basis that GAO case law required him to make such an assumption. This is demonstrably false and contrary to law. GAO case law requires no such assumption. Nor is that assumption supported by the record here.

43. The numerous flaws in the investigation process and legal analysis render the contracting officer's exclusion determination arbitrary and capricious, and contrary to law.

44. Had the contracting officer presented his actual concerns to CACI and [REDACTED], they would have rebutted them as discussed in more detail below.

45. As a result of these failures, not only was the investigation not prompt, it was incomplete and devoid of hard facts, leaving the exclusion determination based only on the contracting officer's suspicions and unfounded concerns about [REDACTED] credibility.

46. Simply put, had the contracting officer been forthright with CACI and [REDACTED] in April 2022, CACI could have addressed and rebutted his concerns, or alternatively taken steps to mitigate any issues that remained—a remedy that was well within CACI's reach even in April 2022. The flawed and dilatory investigation, however, deprived CACI of the opportunity to do so.

47. For these reasons and as set forth more fully below, the Army's exclusion determination and the investigation leading up to it were arbitrary and capricious and not in accordance with applicable law. Accordingly, CACI is seeking declaratory judgment and permanent injunctive relief against the United States, acting through the Army.

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PARTIES

48. CACI is an experienced and qualified government contractor. Despite its unlawful exclusion from the procurement an hour before the Solicitation was released, CACI submitted a timely proposal in response to the Solicitation. Its principal address is 12021 Sunset Hills Road, Reston, Virginia 20190.

49. Defendant is the United States of America acting through the Department of the Army, a federal agency.

JURISDICTION AND STANDING

50. The United States Court of Federal Claims has jurisdiction over this bid protest under the Tucker Act, 28 U.S.C. § 1491(b)(1), which allows the Court to hear “an action by an interested party objecting to . . . any alleged violation of statute or regulation in connection with a procurement.” Here, CACI objects to the decision to exclude it from competition that was arbitrary, capricious, and in violation of applicable law, including Federal Acquisition Regulation (“FAR”) 9.504, the Administrative Procedure Act (“APA”) requiring agencies to give parties a reasonable opportunity to be heard, and the Competition in Contracting Act (“CICA”) requiring agencies to utilize full and open competition.

51. Although the Tucker Act does not define “interested party,” the Federal Circuit has defined that term as “an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract.” *Myers Investigative and Security Servs., Inc. v. United States*, 275 F.3d 1366, 1370 (Fed. Cir. 2002) (citations omitted).

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52. The general rule is that to show a direct economic interest, the protestor is required to establish that it had a “‘substantial chance’ of receiving the contract” but for the error in the procurement process. *Orion Tech., Inc. v. United States*, 704 F.3d 1344, 1349 (Fed. Cir. 2013). However, the Federal Circuit has recognized that when a prospective bidder is challenging an action before the agency makes an award, often “there is no factual foundation for a ‘but for’ prejudice analysis.” *Weeks Marine, Inc. v. United States*, 575 F.3d 1352, 1361 (Fed. Cir. 2009). When that is the case, as it commonly is in pre-award protests such as this one, the Court must consider whether the protestor can demonstrate a “non-trivial competitive injury which can be addressed by judicial relief.” *Id.* at 1362.

53. CACI is an interested party to bring this protest. CACI is an American professional services and information technology company headquartered in Northern Virginia. CACI provides services to many branches of the Federal Government including defense, homeland security, intelligence, and healthcare. CACI timely submitted a proposal in response to the Solicitation while protesting its exclusion at GAO. CACI is therefore a prospective offeror in this procurement that was improperly excluded from the competition. Solely by virtue of the Agency’s arbitrary, capricious, and illegal exclusion of CACI from competition, CACI has been deemed ineligible to compete for award—a non-trivial competitive injury which the Court can remedy by enjoining award and directing the Agency to rescind its determination to exclude CACI from the competition and consider CACI’s proposal for award.

54. The Court has jurisdiction to grant the relief requested under the Tucker Act, as amended, 28 U.S.C. § 1491(b)(2), and Rules of the United States Court of Federal Claims (“RCFC”) 65.

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BACKGROUND

A. Background of the Procurement

55. The procurement at issue in this protest is the latest generation of the Army's CHS contracts. Under the CHS contracts, the Department of Defense and other federal agencies are able to purchase tactical commercial off-the-shelf information technology ("IT") hardware, such as servers, laptops, networking devices, ruggedized platforms, hand-held devices, operational transit cases and peripheral devices, along with warranties and support services.

56. The Solicitation for the newest generation of CHS contracts, CHS-6, seeks to award a single-award indefinite-delivery, indefinite-quantity ("IDIQ") contract that will enable Government customers to purchase items from a CHS catalog. Customers can also add products through a process called "technology insertion" to meet the particular needs of that program and ensure interoperability with a host suite of systems and networks. The contract also provides for "configuration management," which allows customers to order the exact same version of a previously ordered item, including design and engineering, and repair services for the items.

57. CHS-6 is to have an ordering period of up to 10 years and an estimated value of \$7.9 billion.

58. GDMS, or a predecessor of GDMS, has held the CHS contracts since 1995. That is, for the past 28 years, GDMS has effectively had a monopoly on this requirement.

59. The Army awarded CHS-4 to GDMS on August 25, 2011, with a five-year period of performance and subsequent two-year extension to award CHS-5.

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60. The Army awarded CHS-5, the incumbent contract, to GDMS on August 1, 2018 (with an effective date of August 24, 2018), and it has a five-year period of performance, which will end in August 2023.

61. GDMS was the only offeror to submit a proposal for CHS-5.

62. On February 14, 2020, January 26, 2021, and July 16, 2021, the Agency issued Requests for Information (“RFIs”) for CHS-6.

63. The Army released draft solicitations for CHS-6 on January 14, 2022, and March 29, 2022.

64. On October 7, 2022, the Army released the CHS-6 Solicitation, W15P7T-23-R-0008, to the public.

65. Proposals were originally due on November 7, 2022, and the deadline was subsequently extended to November 22, 2022.

66. The CHS-6 solicitation included numerous significant difference from the CHS-5 solicitation. Among other things, the pricing to be proposed by offerors is different than it was under CHS-5. For CHS-6, proposed pricing is to be based on proposed prices for 14 specific products, warranty percentages and “uplift” percentages applied to certain government-provided assumed values for product costs, and small amounts for various other costs. The 14 items are different items than the items GDMS priced in its CHS-5 proposal. The CHS-6 “uplift” and warranty rates are applied to a different set of product categories and quantity ranges than under CHS-5, meaning a comparison between those rates for GDMS’s CHS-5 proposal and a CHS-6 proposal would be an apples-to-oranges comparison.

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67. Though informed it had been excluded, to preserve its rights, CACI nevertheless timely submitted a proposal during the pendency of its GAO protest challenging the Agency's decision to exclude it from the competition.

68. The Agency anticipates making award in August 2023.

B. CACI Seeks to Bring Competition to CHS-6; Engages ██████ for his General Familiarity with the Agency and CHS

69. CACI was aware that CHS-5's period of performance would end in late 2023 and that the Army intended to award the latest generation of CHS, CHS-6, sometime in 2023. CACI, believing it could offer a more innovative and better value proposal than GDMS, the longtime, entrenched incumbent, determined it would submit a proposal for CHS-6 to bring competition to the CHS requirement.

70. In assessing the CHS program, CACI obtained the services of a consultant, ██████ ██████ was a former government employee who left government in 2019 and worked as a consultant to CACI from March 14, 2021, until January 18, 2022.

71. CACI engaged ██████ to leverage his expertise and general familiarity with the Agency in early, pre-solicitation due diligence and in building CACI's overall solution for CHS-6. He provided CACI with background information, such as organizational chart-type information. He also provided information about how the Government operated the CHS program.

72. CACI has a Purchase Order with the Defense Contracting Consulting Group, LLC dba DGC, LLC ("DGC") pursuant to which DGC provides support to CACI's Business Development and Capture activities. During the time that ██████ worked as a consultant for

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CACI, [REDACTED] was employed by DGC. Thus, [REDACTED] work for CACI was as a consultant and independent subcontractor, not a CACI employee.

73. CACI was aware that, prior to his employment with DGC, [REDACTED] spent a career working for the U.S. Army. From December 18, 2014, to April 28, 2019, [REDACTED] worked for the U.S. Army Program Executive Office, Command, Control, & Communications - Tactical (PEO-C3T). In that capacity, he supported the CHS-4 and CHS-5 contracts. He was the Deputy Product Director of CHS from December 18, 2014, to January 6, 2016, and the Product Lead (“PdL”) of CHS from January 7, 2016, to April 28, 2019, when he ceased working on the CHS program. [REDACTED] also acted as the Source Selection Advisory Council Chairperson (“SSAC Chair”) for CHS-5. After his time as PdL for CHS, from April 29, 2019, to November 11, 2019, [REDACTED] had worked as an Operations Officer for PEO C3T. He retired from the Government on November 11, 2019.

74. There is no dispute that [REDACTED] never worked on any aspect of CHS-6 and did not have access to any Source Selection Information related to CHS-6.

75. There is also no contention that [REDACTED] took any documents, much less Source Selection Information or proprietary GDMS documents, with him when he departed Government service.

C. [REDACTED] Work for CACI

76. CACI has a Purchase Order agreement with DGC pursuant to which DGC provides support to CACI’s Business Development and Capture activities.

77. An Independent Contractor Agreement (“IC Agreement”) between [REDACTED] and DGC, dated March 11, 2021, provided that [REDACTED] would comply with all applicable laws and

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regulations, including procurement integrity regulations. The IC Agreement also specified that [REDACTED] had no conflicts of interest based on his prior Government service.

78. CACI retained the consulting services of [REDACTED] to understand better how the government functioned with respect to “C4ISR” systems of which CHS is one. Consistent with this fact, the IC Agreement, specifies that [REDACTED] will serve as a “Subject Matter Expert U.S. Army C4ISR Systems.”

79. CACI’s team was well trained in ethics issues, including those related to conflicts of interest, and knew how to identify and avoid them. To that end CACI recognized the potential that [REDACTED] may have had access to GDMS’s historical pricing information on CHS-5. Therefore, CACI expressly limited his role to avoid anything price-related or GDMS-related, which CACI knew it should not have. That said, CACI also believed that pricing and technical data from CHS-5 were not useful or relevant to CHS-6 given the passage of time and the differences between the procurements, but in abundance of caution, CACI ensured it avoided coming into contact with such information.

80. [REDACTED] did not participate in drafting of CACI’s CHS-6 proposal. In fact, CACI only began its CHS-6 proposal drafting in April 2022, several months after [REDACTED] ceased consulting for CACI.

81. CACI ensured that [REDACTED] did not work on cost or pricing related matters for CACI. Nor did [REDACTED] provide any information to CACI about CHS-4 or CHS-5 contract pricing.

82. In the course of providing CACI support, [REDACTED] would recuse himself from meetings and conversations before GDMS or pricing were discussed.

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83. Consistent with this, [REDACTED] also did not disclose any GDMS proprietary information to CACI, nor did CACI ask him questions about GDMS.

84. In December 2021, [REDACTED] considered taking a position as an employee directly with CACI but decided to fully retire instead.

85. On January 18, 2022, [REDACTED] ceased consulting for CACI.

D. The Contracting Officer Learns that [REDACTED] is Consulting for CACI at least as early as October 2021, But Takes No Action

86. On October 25, 2021, CACI participated in a one-on-one presentation to the Government related to CHS-6. [REDACTED] was a member of CACI's presentation team and presented to the Government on behalf of CACI regarding public-private partnerships. The contracting officer, along with several other Government officials, participated in that meeting, including several who would later be interviewed by the contracting officer for his investigation of [REDACTED] work with CACI—namely [REDACTED]
[REDACTED]

87. The contracting officer, [REDACTED], had been the Contracting Officer for CHS-4 and CHS-5 and knew very well of [REDACTED] involvement on CHS-4 and CHS-5. Neither the contracting officer nor any other Government personnel present raised any concerns about [REDACTED] participation at the meeting.

88. On November 2, 2021, CACI attended the Fall Tech Exposition at Aberdeen Proving Ground, a large government-industry gathering. [REDACTED] participated on behalf of CACI and was even wearing a CACI shirt. Government representatives from the CHS contract, including the Contracting Officer's Representative (COR), [REDACTED], were also present and interacted with

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██████ and CACI. Again, neither the contracting officer nor any other Government personnel present raised any concerns to CACI about ██████ participation at the meeting.

89. The Agency's silence signaled to CACI that ██████ involvement with CACI did not create even the appearance of impropriety or an unfair competitive advantage.

E. Notice of Concern and CACI's Response

90. Nearly six months later, on April 18, 2022, the contracting officer sent a notice of concern to CACI ("Notice of Concern") "in order to seek information" to "determine whether CACI may have obtained an unfair competitive advantage if it hired a former government employee with knowledge of non-public information." Although the contracting officer was present at the October 25, 2021 one-on-one briefing with CACI in which ██████ participated with the CACI team, the contracting officer stated in the April 18, 2022 Notice of Concern that "it had come to the Government's attention" that ██████ was listed as a CACI CHS-6 team member on CACI's October 25, 2021 presentation slides.

91. The Notice of Concern asked very generic questions, such as ██████ employment status and period of compensation with CACI, whether CACI requested and obtained ██████ post-government employment ethics opinion, and what ██████ role was in CACI's proposal efforts for CHS-6, including whether he participated in the cost or pricing proposal, whether he provided GDMS proprietary information, whether he provided information regarding CHS-5, whether he provided proprietary, non-public, or competition sensitive information regarding CHS-4 and CHS-5, and whether he provided information regarding how GDMS supported CHS-5. The Notice of Concern did not seek information about whether ██████ actually possessed proprietary information about GDMS—which he did not. Further, the Notice

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of Concern did not inquire as to whether any information ██████ possessed about CHS-4 or CHS-5 even could be competitively useful on CHS-6, despite the fact that this should have been central to the contracting officer's inquiry.

92. On April 19, 2022, ██████, the Vice-President of Contracts for CACI requested and participated in a phone call with the contracting officer to gather additional information, along with ██████, the Vice President and Deputy General Counsel for CACI.

93. During that brief call, ██████ and ██████ asked the contracting officer what prompted the Notice of Concern and he stated it was as a result of a one-on-one meeting between CACI personnel and the Government that took place in October 2021. When asked why it had taken him so long to contact CACI, the contracting officer merely responded that he had been too busy to deal with the issue until then.

94. During the call, and as with the Notice of Concern, the contracting officer did not identify any specific concerns or allegations regarding ██████ and did not provide any specific facts or allegations that suggested any unfair competitive advantage had been created.

95. The contracting officer also did not make reference to any concerns related to ██████ interactions, including with the Agency ethics office or related to ethics letters, during the call. Nor did he raise any issues about ██████ credibility or integrity.

96. On April 19, 2022, the contracting officer also sent a letter to ██████ stating that the Agency was investigating a "potential" unfair competitive advantage and asking ██████ to answer several questions regarding his employment with the government, access to GDMS proprietary information, and the details of ██████ consulting work for CACI.

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97. On May 3, 2022, CACI promptly provided comprehensive responses to the contracting officer's letter ("May 3 Response") with supporting evidence that it had not obtained an unfair competitive advantage. [REDACTED] also provided comprehensive responses to the contracting officer's letter to him.

98. CACI's May 3 Response to the Notice of Concern addressed each of the Agency's questions. Among other things, CACI noted that [REDACTED] employment agreement with DGC clearly stated that "[REDACTED] has no conflicting obligations with the U.S. Government based on his prior Government service, or that could present a conflicts of interest."

99. CACI explained that it had retained [REDACTED] to understand better how the Government functioned with respect to C4ISR systems, of which CHS is one.

100. CACI noted that [REDACTED] engagement with CACI began on March 14, 2021 (nearly two years after he ceased work on CHS-5), and had ended on January 18, 2022 (just as the first draft CHS-6 RFP was issued).

101. CACI also reported on the diligence it conducted prior to engaging [REDACTED], including that it determined that [REDACTED] had ceased working on CHS-5 in April 2019—seven months before he actually left Government employment in November 2019. CACI confirmed that [REDACTED] had no involvement with CHS-6 whatsoever—a fact that remains undisputed.

102. CACI reported that [REDACTED] work for CACI was limited to advising on building technical solutions for CACI's proposal, that he did not work on cost or pricing for CACI's CHS-6 proposal, and that he did not provide any information to CACI about the CHS-4 or CHS-5 contract pricing. CACI also reported that [REDACTED] did not disclose to CACI any GDMS

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proprietary information. CACI went on to note that [REDACTED] recused himself from conversations where GDMS or pricing issues were specifically discussed.

103. [REDACTED] also responded to the separate Notice of Concern he received and provided his own Declaration, independently of CACI's response. In [REDACTED] Response, he detailed his quite limited access to GDMS proprietary material. [REDACTED] reported that he "did not work with GDMS proprietary, nonpublic, and/or competition sensitive information regularly." He stated:

I generally recall having access to some GDMS-specific information through files sent to me and possibly saved on my government issued laptop at some unknown point in time. I do not recall if the GDMS information that was generally accessible to me was proprietary, non-public, and/or competition sensitive information. I do recall that GDMS's pricing proposal for CHS-5 was accessible to me at some point in time. My best recollection is that I opened the GDMS pricing proposal at least one time. I recall scanning that information one time for less than a minute or two.

104. With respect to the negotiation and award of the CHS-5 contract in 2017 and 2018, [REDACTED] also stated that he did not read or review the technical, Small Business, or Past Performance portions of GDMS's CHS-5 proposal. Finally, [REDACTED] asserted that his involvement in any of the negotiations between the Government and GDMS was extremely limited. He stated that he only attended "one meeting where GDMS's proprietary information was discussed," that his role was mostly that of a "bystander," and that he did not participate in the negotiations with GDMS. Overall, [REDACTED] stated that he "[did not] recall receiving any competitively useful information based on [his] role or in the involvement of the CHS-5 negotiations."

105. [REDACTED] also affirmatively stated that he did not knowingly provide GDMS proprietary information to anyone, including CACI. This statement was and remains uncontradicted by any hard facts in the record and was supported by sworn statements from CACI.

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There is no evidence in the Agency record that [REDACTED] provided CACI any GDMS proprietary information.

106. Subsequent to its May 3, 2022 submission, CACI made several inquiries to the Contracting Officer about the status of the investigation, all without any substantive response.

F. The Agency's Preliminary Notification of Exclusion and CACI's Response

107. Many months later, on August 24, 2022, the contracting officer sent CACI a three-page Notification of Preliminary Decision to Exclude ("Preliminary Notification") in which the contracting officer stated that he had made the following three preliminary determinations: (1) that [REDACTED] had access to GDMS non-public and proprietary information in connection with the CHS Program; (2) that such information was competitively useful for the CHS-6 source selection; and (3) that it was likely that [REDACTED] had disclosed this information to CACI. No documents or other evidence were attached.

108. As a result, the contracting officer decided that CACI should be excluded from CHS-6 because it had "an actual unfair competitive advantage," or, in the alternative, because of "the appearance of an unfair competitive advantage."

109. The Preliminary Notification consisted largely of a series of unexplained, unsupported general averments in outline form. It ignored -- and gave no indication that the Agency had considered -- CACI's and [REDACTED] May 3 Responses.

110. The Preliminary Notification did not identify any concerns about [REDACTED] credibility.

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111. On September 6, 2022, CACI responded to the Preliminary Notification with an 18-page letter (“September 6 Response”) that provided hard facts and legal support refuting the Government’s alleged unfair competitive advantage assertions.

112. CACI’s response emphasized that the Preliminary Notification did not address a number of hard facts CACI had previously presented in its May 3, 2022 Response.

113. CACI’s September 6 Response was further supported by a Declaration from [REDACTED], its Vice President-Capture. [REDACTED] verified the veracity of the statements made by [REDACTED] regarding his role with CACI, including that CACI’s purpose in “retain[ing] the services of [REDACTED] [was] to understand better how the government, not GDMS, functioned with respect to C4ISR systems.” [REDACTED] further explained that “[REDACTED] *did not* participate in preparation of CACI’s CHS-6 proposal” or “cost or pricing for CACI’s CHS-6 proposal,” that [REDACTED] did not use or provide CACI with nor did CACI request proprietary, non-public information on GDMS, and that “[REDACTED] recused himself from actively participating in GDMS CHS-4 and CHS-5 pricing discussions.”

114. CACI’s September 6 Response to the Preliminary Notification also included an additional declaration by [REDACTED]. In this declaration, [REDACTED] expanded upon his lack of use of and lack of access to GDMS proprietary information and reaffirmed his lack of knowledge of GDMS pricing information, stating:

In my role as PdL CHS-5 I did not have a deep understanding of GDMS non-public and proprietary information. I was focused on developing the CHS-5 package and what government customers wanted out of the CHS-5 contract. My focus was not on what GDMS was doing internally. I was not involved with how GDMS developed any of their processes including developing their rates While working on CHS, I did not access GDMS pricing analysis and strategy as a part of my job duties. I do recall receiving an email with a GDMS proposed rate chart

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submitted through their proposal, opening it, and quickly realizing that it was too much data and unnecessary to perform my job function. I had no access to or memory of GDMS pricing when I consulted for CACI. To provide context, there were hundreds if not thousands of rates for 21 categories broken down by 5 or 6 price breaks, warranty options, hardware options and complexity of versions. I believe I saw this complex matrix one time but never retained such voluminous details after one look at them.

115. [REDACTED] further reiterated that “[w]hile consulting for CACI, I withdrew from active participation in discussions about GDMS’ CHS-4 and CHS-5 pricing.”

116. [REDACTED] also noted that following his retirement from Government service, he did not have access to any GDMS proprietary information.

117. In concluding its September 6 Response, CACI also requested the opportunity to meet with the Government to further address any lingering concerns or any additional information the Government might be relying on that had not been communicated to CACI.

118. The Government, without explanation, declined such a meeting and did not provide CACI any additional information until it later excluded CACI from the competition.

G. The Agency’s October 7 Final Notification of Exclusion and Release of the RFP

119. For over a month, CACI heard nothing from the Government. Then, on the afternoon of October 7, 2022, the contracting officer issued CACI the Notification of Decision to Exclude CACI (“Final Notice”) based on the supposed unfair competitive advantage allegedly stemming from CACI’s use of [REDACTED] as a consultant for the CHS-6 procurement. The Final Notification was barely three pages.

120. An hour after the contracting officer submitted the Final Notification to CACI, he released the Solicitation.

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121. The Final Notification again failed to address the factual and legal points and authorities CACI raised in its prior submissions. The Final Notice presented a few new allegations which were not previously disclosed to CACI.

122. The Government did not provide any documents or other evidence in support of its Final Notification including related to these new assertions.

123. Notably, the Final Notification identified no concerns about [REDACTED] credibility.

H. CACI Files GAO Protest and Learns That Agency Had Withheld Most of its Analysis and Evidence

124. On October 17, 2022, CACI filed a GAO bid protest challenging the Agency's decision to exclude CACI from the CHS-6 competition. One of CACI's grounds of protest was that the Agency had denied CACI basic due process because the Final Notification to disqualify CACI contained a number of new contentions that went beyond what the Preliminary Notification had been based on. It was not until the Army produced the Agency Report as part of the GAO protest that CACI discovered the degree to which the Agency had kept CACI in the dark during the investigation.

125. After the Agency filed the record and its legal memorandum in response to CACI's GAO protest, CACI requested a short extension of time to file its Comments on the Agency Report. GAO responded to CACI's request with the following comment in the electronic docket: "GAO has briefly reviewed the agency's submissions and is granting protester's request for an extension of time to file comments. *The protester may wish to use the additional time to consider whether it will continue to pursue this protest.*" (Emphasis added.)

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126. By this point, CACI had only just received the record, which was the very first disclosure of the contracting officer's full reasoning for his decision and the actual supporting documentation for it. CACI had not yet had an opportunity to respond to the Agency's arguments or the full record. Yet GAO made clear it had already pre-judged the outcome of the protest by encouraging CACI to withdraw its protest.

127. CACI declined GAO's invitation to withdraw its protest and filed Comments on the Agency Report along with a Supplemental Protest. CACI later filed Comments on the Agency's subsequent Supplemental Agency Report. In its GAO filings, CACI demonstrated that the CO's investigation was improperly and unreasonably delayed, failed to give CACI a meaningful chance to respond to the CO's real concerns, and was based on a series of erroneous, unreasonable, and unsupported judgments.

128. On January 23, 2023, GAO issued its decision, in which it denied CACI's protest. In keeping with its pre-judgment of the case—again formed before CACI even had a chance to respond to the actual investigation—GAO applied unquestioning deference to the Agency that its unreasonable judgments and flawed investigation did not deserve and denied CACI's protest.

129. With the GAO Agency Report, CACI received a redacted version of the Agency's internal August 24, 2022 "Preliminary Determination to Exclude CACI" ("Preliminary Determination"). While the Preliminary Notification, which CACI had received on August 24, 2022, was a mere three pages, the Preliminary Determination was 39 pages (single-spaced), included 45 attachments, and expounded in substantially greater detail on the contracting officer's basis for excluding CACI from the CHS-6 competition—details that were never communicated to CACI.

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130. Only through the GAO protest did CACI learn—for the first time—that the impetus for the investigation had not been the contracting officer’s own concerns but rather demands by GDMS that the contracting officer exclude its competitor, CACI. The contracting officer’s failure to act on his own initiative or concerns (if he really had any) accounted for this the first of several excessive delays in the investigation.

131. In fact, the GAO record revealed that, after the contracting officer learned that [REDACTED] had been working with CACI on CHS-6 on October 25, 2021, the contracting officer did nothing to investigate any supposed unfair competitive advantage. Weeks passed before GDMS demanded he exclude CACI.

132. The investigation record shows that on December 8, 2021, [REDACTED], GDMS Senior Contracts Manager for the CHS-5 effort, emailed the contracting officer to notify him that GDMS had discovered that [REDACTED] was consulting for CACI on the CHS-6 effort (a fact the contracting officer already knew). [REDACTED] claimed [REDACTED] had access to GDMS proprietary information and suggested that the contracting exclude CACI from the CHS-6 competition. [REDACTED] email to the contracting officer attached a letter from GDMS’s attorney, who also declared that [REDACTED] had “extensive access” to GDMS’s proprietary information under CHS-5 and demanded that the CO “take the necessary action of excluding CACI from the competition.”

133. Despite having been aware since at least October 25, 2021, that [REDACTED] was working with CACI, it was only after receiving this demand from GDMS that the contracting officer initiated a formal investigation to determine whether [REDACTED] consulting support to CACI created an unfair competitive advantage. But even then the contracting officer moved at a glacial

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pace. The investigative record is devoid of activity, until approximately *four months* after the one-on-one meeting and two months after GDMS made its demands.

134. On February 15, 2022, the contracting officer interviewed the former GDMS Program Manager for CHS.

135. Also in February 2022, the contracting officer conducted interviews of a handful of Government employees, many of whom had been in the October 2021 meeting. He provided them with a short list of questions, many of which were highly subjective in nature such as whether [REDACTED] was “hands-on.”

136. The GAO record shows that the contracting officer contacted one current and one former GDMS employee. These included GDMS’s Senior Director of Contracts, who received an email from the CO dated February 28, 2022, asking whether [REDACTED] had access to GDMS’s proprietary information. The contracting officer asked that GDMS employee about [REDACTED] access to specific types of information that the contracting officer preemptively defined as “proprietary, non-public, or competitively useful.”

137. GDMS’s employee responded on March 16, 2022, not surprisingly eager to paint [REDACTED] as extensively involved in GDMS’s proprietary information to further its desire to eliminate CACI as a potential competitor.

138. The GAO record also revealed that the contracting officer had decided by March 2022 that he simply would not believe [REDACTED] because he believed [REDACTED] lacked credibility. This conclusion was based on two issues that arose in the contracting officer’s mind. First, prompted by GDMS’s December 8, 2021 demand letter, the contracting officer formed a (misplaced) suspicion that [REDACTED] had committed a violation of Section 847 of the National

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Defense Authorization Act of 2008, Pub. L. 110-181 (“Section 847”). Section 847 requires certain “covered officials” to seek and obtain an Agency ethics letter upon departing government. The second was his (mistaken) assumption that [REDACTED] had deliberately misled the Agency’s ethics officials in December 2021. As a result of these concerns, and despite the fact that he had yet to raise his concerns, including these, with CACI, the contracting officer decided he would disbelieve [REDACTED] statements (and for no apparent reason, CACI’s) in response to the investigation, particularly as they related to the all-important question of whether [REDACTED] shared certain information with CACI.

139. Shockingly, while the Preliminary and Final Determinations show the contracting officer was greatly concerned about these two issues and [REDACTED] credibility generally, and that these concerns heavily influenced his decision to exclude CACI, the contracting officer hid these concerns from CACI and [REDACTED] throughout the investigation. Instead, he proceeded to draw baseless inferences—all consistently against [REDACTED] and CACI, and often with disregard to the facts in the record—in deciding to disbelieve [REDACTED] statements.

140. In March 2022, the contracting officer contacted a CECOM ethics attorney to determine whether [REDACTED] had requested and received a post-government employment ethics letter or an “After Government Employment Advice Repository (AGEAR)” letter. The contracting officer stated that the CECOM ethics attorney found no record of such a request “either locally or in the AGEAR repository.”

141. In the Preliminary Determination, the contracting officer asserted that “[REDACTED], as a former Deputy Product Director of CHS until April 2019 and the CHS-5 SSAC Chairperson in 2018 (over \$10M), was required as a ‘DOD covered official,’ pursuant to Section 847 of Pub. L.

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110-181 ... to receive a written post-government employment (PGE) opinion within two years of leaving service in the Department of Defense prior to accepting compensation from any DoD contractor.” The contracting officer concluded that [REDACTED] failed to receive such an opinion and that this failure undermined his credibility. The contracting officer also concluded that Section 847 obligated CACI to confirm [REDACTED] had obtained the required PGE letter.

142. Inexplicably, though the contracting officer was in touch with the ethics office to inquire whether [REDACTED] had received a letter, he failed to ask the ethics office for its views on the more important question: whether [REDACTED] was obligated to seek such a letter at all.

143. [REDACTED]
[REDACTED]. The contracting officer’s views had clearly hardened to a conclusion that [REDACTED] lacked credibility and that he would disregard [REDACTED] statements—even a month before he sent his Notice of Concern to CACI.

144. The second issue that prompted the contracting officer’s distrust of [REDACTED] stemmed from his December 2021 contact with the Agency’s ethics office, and what the contracting officer perceived to be misleading statements [REDACTED] made to the ethics office. As it turns out those concerns were unfounded.

145. In fact, in late 2021, [REDACTED] was considering direct employment with CACI. As a result of this potential change in status, [REDACTED] contacted a CECOM attorney for guidance. However, a few days later, for personal and family reasons, [REDACTED] decided he would fully retire, not take a new direct employment position with CACI, and that he would wind up his consulting through DCG. He relayed this in an email to the CECOM attorney.

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146. However, the contracting officer did not know that [REDACTED] had been inquiring about the possibility of full-time employment with CACI (because he conducted a shoddy investigation and did not ask [REDACTED]) and erroneously assumed that [REDACTED] had been belatedly inquiring about his consultancy with CACI, which had been underway for several months.

147. The contracting officer thus secretly harbored concerns about [REDACTED] that had enormous bearing on the contracting officer's exclusion determination, and by at latest March 2022 had concluded that [REDACTED].

148. Still, the contracting officer waited a few more weeks, until April 18, 2022, before he finally reached out to CACI and [REDACTED] for their input on the alleged unfair competitive advantage.

149. However, when he finally contacted CACI and [REDACTED] on April 18 and 19, 2022, the contracting officer made no mention of his concerns about [REDACTED] credibility, including his interactions with the ethics office or his alleged violation of Section 847 and certainly not the contracting officer's [REDACTED]. It was not until the record was produced in the GAO protest that CACI learned the contracting officer relied on Section 847 and credibility concerns regarding [REDACTED] in deciding to exclude CACI.

150. There was no good reason why the contracting officer could not have raised these concerns with [REDACTED] or CACI. In fact, a reasonable and thorough investigation demanded it. Had the contracting officer bothered to inquire of [REDACTED] or CACI about these issues, he would have learned that neither [REDACTED] service on the SSAC nor his actual position description met the definition of a "covered official" under Section 847. The contracting officer also would have

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learned the actual context and purpose of [REDACTED] inquiry to the ethics office and that there was nothing false in his statements about it. These issues are discussed in more detail below.

151. The contracting officer had another opportunity to give CACI a meaningful chance to respond to these concerns the following day, April 19, 2022, when he had a telephone conversation with CACI's Vice President of Contracts and Deputy General Counsel, as discussed above. Yet the contracting officer again did not raise any issues regarding [REDACTED] credibility, nor did he provide any of the specific "evidence" he had collected to that point that he viewed as justifying CACI's exclusion.

152. As noted above, CACI and [REDACTED] responded to the contracting officer's questions on May 3, 2022. The contracting officer's investigation activity after this date was minimal and effectively complete. Only four additional exhibits are contained in the record. In one, from July 2022, the contracting officer sought [REDACTED] position description from the agency personnel office. Yet again, he received the incorrect position description from the personnel office. The other three documents in the GAO record provided no new substantive adverse information and largely corroborated [REDACTED] statements.

153. The GAO record also showed that, essentially, nothing else happened in the investigation until August 24, 2022 (four months after the contracting officer contacted CACI and [REDACTED]) when he emailed the 3-page Preliminary Notification to CACI

154. Also in the GAO record, the Agency for the first time produced the comprehensive "Final Determination to Exclude CACI" ("Final Determination"), dated October 7, 2022, in which the CO had set forth his ultimate reasoning for disqualifying CACI. While the Final Notification

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provided to CACI had been a barely three pages, the Final Determination was 25 pages and had 44 attachments.

I. The Contracting Officer's Investigation did not Meet the Requirements of the FAR, or the APA's Due Process Standard and was Arbitrary and Capricious and an Abuse of Discretion

155. The contracting officer's investigative process failed as a matter of law and in every respect.

156. First, the contracting officer failed to comply with the requirements of FAR 9.504 to "evaluate potential organizational conflicts of interest as early in the acquisition process as possible" and to "avoid unnecessary delays" in conducting conflict of interest investigations.

157. Instead, he delayed the investigation unnecessarily and thereby arbitrarily precluded CACI from taking any action to mitigate the alleged unfair competitive advantage. To summarize:

- a. The October 25, 2021 meeting in which [REDACTED] was openly representing CACI was the supposed flash point of the Agency's concerns over an unfair competitive advantage, but neither the contracting officer nor the other Agency officials present raised any concerns about it.
- b. On December 8, 2021, GDMS demanded that CACI be excluded based on [REDACTED] participation.
- c. Even still, the record does not reflect any investigation activity until mid-February 2022. The initial investigation consisted of interviews of two GDMS and a handful of Government personnel who were asked mostly generic questions. Many of the Government "witnesses" the contracting officer

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interviewed were present at the October 25, 2021 meeting. The record does not reflect them raising any contemporaneous concerns.

- d. After about one month of actual investigative activity, by mid-March, the contracting officer had received the interview responses and had clearly made up his mind that he would not believe [REDACTED]. In fact, his concerns, though inadequately investigated and researched, caused him to [REDACTED].
- e. Yet another month passed before the contracting officer finally reached out to CACI and [REDACTED] on April 18 and 19, 2022.
- f. He received their responses on May 3, 2022.
- g. Essentially nothing happened in the investigation after that, except the three minimal exchanges that provided no significant additional adverse information.
- h. Ultimately, nearly an entire year passed between precipitating event (the October 25, 2021 meeting) and the contracting officer's Final Determination.
- i. One hour later, the contracting officer released the Solicitation.

158. Second, the contracting officer did not provide CACI a meaningful opportunity to address his real concerns, as required by the FAR and fundamental principles of due process. The contracting officer provided CACI none of the exhibits or information on which he based his decision. He did not reveal to CACI his concerns about [REDACTED] credibility, ever. Yet these concerns were the only basis the contracting officer asserted to disbelieve [REDACTED], [REDACTED], and CACI including the sworn statements and hard facts they presented demonstrating [REDACTED] did not inappropriately share information.

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159. Specifically, in his April 18, 2022 Notice of Concern, the contracting officer withheld the deep concerns he had developed, making it impossible for CACI to respond to them.

160. Even in the August 24 Preliminary Notification, the contracting officer provided only conclusory statements in outline form in a 3-page document. He continued to withhold his concerns about [REDACTED] credibility, as well as any support for his various assertions—making a meaningful response again impossible.

161. Then, on the afternoon of October 7, 2022, the contracting officer issued his 3-page Final Notification only an hour before he released the Solicitation, ensuring that CACI had insufficient time to respond to the new allegations in the Final Notification, much less time to mitigate the alleged unfair competitive advantage.

162. The contracting officer's investigation was also not thorough or objective. While the contracting officer disbelieved [REDACTED] every statement and disregarded CACI's evidence including sworn statements and hard facts, the contracting officer unquestioningly believed GDMS's statements. The contracting officer failed to recognize and account for the incentive GDMS had to eliminate its competitor so that it could, yet again, secure the CHS contract without competition. Further errors in the investigation are discussed below.

J. The Contracting Officer's Determination Was Irrational, Built off an Inaccurate and Incomplete Record, and was Arbitrary and Capricious and an Abuse of Discretion

163. In addition to the numerous process deficiencies, the contracting officer's determination and supporting findings were irrational and lacked a sufficient substantive basis, rendering his ultimate decision arbitrary and capricious, an abuse of discretion and in violation of law.

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164. First, the relevant provisions of FAR Part 3 (Conflicts of Interest) and FAR Subpart 9.5 (including 9.505 “Organizational and Consultant Conflict of Interest”) are tied closely to the provisions of the Procurement Integrity Act (“PIA”). The PIA, in relevant part, precludes the sharing of Source Selection Information as well as contractor confidential and proprietary information.

165. There is no dispute that [REDACTED] did NOT provide, nor ever have access to any PIA-covered information related to CHS-6. The Agency concedes [REDACTED] did not work on CHS-6 at all. Moreover, it is undisputed that [REDACTED] left the Agency long before the CHS-6 Solicitation was drafted or released.

166. Beyond the FAR’s primary focus on precluding the sharing of PIA-covered information, which did not occur, the FAR provisions related to unfair competitive advantage (either under FAR Subpart 9.5—which applies to *Consultant* Conflicts of Interest—or FAR Part 3) speak to information that meets all of the following characteristics: it is non-public, it is competitively useful, and it provides an unfair competitive advantage to the recipient.

167. In this case, the contracting officer’s determination focused on information GDMS alleged was proprietary information—a characterization he accepted without question. From there, he concluded, without any factual support, [REDACTED] shared with CACI.

168. First, with respect to GDMS’s non-price proprietary information, the record demonstrates the contracting officer failed to identify any such information which would actually give rise to a unfair competitive advantage or OCI.

169. In fact, none of the supposed “evidence” the contracting officer cited to, even in his secret, internal determinations, was contemporaneously marked as being proprietary by GDMS.

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170. Rather, only when GDMS launched its attempt to remove CACI as a competitor did GDMS make the *post hoc* claim that a few pieces of its information were GDMS proprietary, but again, the limited supporting documentation GDMS provided was NOT marked as such in its contemporaneous form.

171. The contracting officer failed to consider this point at all.

172. He also failed to confront GDMS—the clearly self-interested instigator of the entire investigation—with this obvious omission. Instead, he swallowed GDMS’s self-serving allegations whole and without hesitation or question.

173. With respect to historical GDMS pricing information, there is no dispute that [REDACTED] took no information with him when he left Government and any information he might recall from his time in Government would have been stale.

174. But whether [REDACTED] had access to such information misses the point. From the inception of its retaining [REDACTED] as a consultant, CACI insulated itself against any issue related to such GDMS pricing information by excluding [REDACTED] from any pricing discussions or discussions related to GDMS. The steps CACI took to firewall [REDACTED] were well-established and presented to the contracting officer by CACI in April 2022 and again in September 2022 and were supported by hard facts, including sworn declarations from [REDACTED] and CACI personnel and the provisions of the consulting agreement between CACI and [REDACTED] employer, DCG.

175. The only basis the contracting officer had for ignoring and disregarding these hard facts were based on his secret suspicions and innuendo related to [REDACTED] credibility.

176. First, the the contracting officer’s suspicion that [REDACTED] was a “covered official” under Section 847 was erroneous, not to mention irrelevant. [REDACTED] was demonstrably not a

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“covered official” under that law. The contracting officer’s ill-formed views were based on clear errors of law (he erroneously believed that an SSAC position was an enumerated covered position; it is not) and clear errors of fact (he obtained the wrong position description for [REDACTED], not once but twice). Ultimately, in the GAO protest, once CACI became aware of these concerns, [REDACTED] provided his actual position description which showed he was not a “covered official” under Section 847.

177. Again, the contracting officer failed to raise these issues with CACI or [REDACTED] at all. He also failed to raise his concerns and seek guidance from the Agency’s own ethics office, despite being in communication with them during the investigation.

178. Second, the contracting officer jumped to the conclusion that [REDACTED] outreach to the ethics office in late 2021 was a surreptitious attempt to cover his tracks. As noted above, this was an ill-informed and preposterous conclusion, given [REDACTED] had been working openly with CACI in face-to-face meetings with the Government, even wearing a CACI logo shirt.

179. Here again, the contracting officer failed to confront [REDACTED] (or CACI), and simply assumed the worst. He was required to present these concerns to CACI as a matter of law. Had he done so, he would have learned that [REDACTED] was contemplating a change from being a consultant to CACI and taking on a full-time employment role. He also would have learned that [REDACTED] ultimately decided in late 2021 to retire. Everything [REDACTED] told the ethics office was true.

180. As demonstrated in filings in the GAO protest, if CACI had been made aware of these concerns during the investigation, it would have pointed out that the Agency’s conclusions were objectively incorrect as a matter of fact and law. [REDACTED] would have done the same.

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181. Beyond these two undisclosed (and unfounded) concerns, which the contracting officer formed in March 2022, he later claimed to develop other reasons to disbelieve [REDACTED] based on supposed alleged inconsistencies between [REDACTED] statements and other witnesses' statements about whether [REDACTED] was a "hands-on" participant in CHS-5. Not only was this determination baseless but it further reveals the irrational and arbitrary and capricious nature of the investigation.

182. In interviewing witnesses, the contracting officer used nebulous and subjective terms that ultimately had no meaningful relation to [REDACTED] degree of access to GDMS's proprietary information. His inquiry focused primarily on whether [REDACTED] was "hands-on" when he worked on CHS-5. First, whether a leader is "hands-on" is a wholly subjective judgment. Differences of opinion on that amorphous subject do not provide a credible basis to disbelieve [REDACTED]. In addition, the degree to which a leader was historically "hands-on" has no discernable impact on his or her access to specific competitively useful, non-public information which would confer an unfair competitive advantage on CACI, particularly when there is no dispute that the individual took no such documents with him upon departing Government service.

183. Second, the witnesses did NOT universally say that [REDACTED] was a "hands-on" leader as the contracting officer contended. In fact, there was significant variance in what the Government witnesses said about [REDACTED] and his role, yet the contracting officer did not question their credibility because of these variations. Moreover, he ignored Government witness statements that went against his pre-formed conclusions and supported [REDACTED] statements.

184. Third, the contracting officer's argument that [REDACTED] was a hands-on leader also ignores the undisputed facts that [REDACTED] took nothing with him when he left government in 2019,

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██████ never worked on CHS-6, and he had left the Government well more than a year before consulting with CACI.

185. The contracting officer's determination that [REDACTED] lacked credibility was baseless. It was therefore irrational, as well as arbitrary and capricious for him to reject the evidence [REDACTED] and CACI provided demonstrating he had not shared GDMS proprietary information with CACI.

186. For each of the foregoing reasons, the contracting officer's investigation did not meet the requirements of Subpart FAR 9.5 or the APA and was arbitrary and capricious and an abuse of discretion, with the result that CACI was illegally excluded from the competition in violation of CICA.

K. CACI was prejudiced by the contracting officer's slow-rolled, incomplete, unsupported and biased investigation

187. Had the contracting officer provided CACI with notice of his true concerns in October 2021 or even April 2022, and had CACI been unable to address those to the contracting officer's satisfaction, CACI could readily have assembled a new capture team to pursue CHS-6.

Age Group	Male (%)	Female (%)
18-24	10	90
25-34	50	50
35-44	50	50
45-54	50	50
55-64	10	90

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[REDACTED]

190. In addition, CACI only started writing its proposal in late April 2022, more than three months after [REDACTED] ended his consulting work for CACI and well after the October 2021 one-on-one meeting.

[REDACTED]

192. Had the CO communicated his actual concerns to CACI at or in the immediate aftermath of the October 2021 meeting one of two things would have happened. Either CACI and [REDACTED] would have rebutted the concerns and resolved them to the CO's satisfaction or the CO would have informed CACI it had a problem that required mitigation. At that point, a year before the RFP release, CACI could have put a new proposal team in place.

COUNT I

The Agency's Investigation Process and Ensuing Determination to Exclude CACI from the Competition was Arbitrary and Capricious, an Abuse of Discretion and in Violation of Law

193. The allegations of paragraphs 1 through 192 are hereby incorporated by reference.

194. As described above, the Agency: (a) unnecessarily and unreasonably delayed undertaking its investigation and determining to exclude CACI, thereby precluding CACI from taking any steps to mitigate the alleged unfair competitive advantage and remain in the competition; (b) inexplicably withheld from CACI and [REDACTED] certain concerns on which its

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exclusion determination was based, thereby depriving itself of information that could have resolved those concerns and depriving CACI of its right to respond to the Agency's concerns -- in instead the Agency relied largely and unquestionably on GDMS's self-motivated assertions; and (c) improperly disregarded undisputed facts that [REDACTED] did not share CHS-5 and GDMS pricing or other proprietary information with CACI, which the principal basis for the exclusion.

195. In a bid protest, the court reviews an Agency's OCI investigation pursuant to the Administrative Procedure Act's standards. *Oak Grove Tech., LLC v. United States*, 155 Fed. Cl. 84, 97–98 (quoting *Nat'l Gov't Servs., Inc. v. United States*, 923 F.3d 977, 981 (Fed. Cir. 2019)), 115 (citing *PAI Corp. v. United States*, 614 F.3d 1347, 1352–53 (Fed. Cir. 2010)). That is, the court examines whether the Agency's actions were “arbitrary, capricious, an abuse of discretion, or otherwise contrary to law.” *Id.* This includes whether the Agency properly followed the procedures for investigating an OCI outlined in FAR Subpart 9.5. *See Ernst & Young, LLP v. United States*, 136 Fed. Cl. 475, 508 (2018) (discussing whether the Agency's actions surrounding an OCI violated FAR 9.504). “Further, the identification of an OCI ‘must be based on “hard facts; a mere inference or suspicion of an actual or apparent conflict is not enough.” ’ ” *Sigmattech, Inc. v. United States*, 141 Fed. Cl. 284, 327 (2018) (quoting *Turner Constr. Co. v. United States*, 645 F.3d 1377, 1387 (Fed. Cir. 2011)) (citing *Loch Harbor Grp., Inc. v. United States*, 128 Fed. Cl. 294, 302 (2016); *Macaulay-Brown, Inc. v. United States*, 125 Fed. Cl. 591, 602 (2016)).

196. The numerous flaws in the investigation process and legal analysis render the CO's exclusion determination arbitrary and capricious, an abuse of discretion and contrary to the requirements of Administrative Procedure Act. *See Systems Plus, Inc. v. United States*, 69 Fed. Cl. 757, 767 (2006).

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197. The APA establishes a fundamental due process requirement for an agency's conduct of any informal agency adjudication, such as the Agency's decision to exclude CACI from the competition here, entitling a party to the right to be heard. *See id.*, citing 5 U.S.C. § 555(b) (“A party is entitled to appear in person or by or with counsel or other duly qualified representative in an agency proceeding. So far as the orderly conduct of public business permits, an interested person may appear before an agency or its responsible employees for the presentation, adjustment, or determination of an issue, request, or controversy in a proceeding, whether interlocutory, summary, or otherwise, or in connection with an agency function.”) (emphasis in *Systems Plus*). In that respect, “[t]he fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Systems Plus*, 69 Fed. Cl. at 767, citing *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

198. The Agency's dilatory and obscured investigation violated the due process requirement under the APA to afford CACI a meaningful right to be heard before excluding it from the competition. While CACI provided input in response to the Agency's Notice of Concern and Preliminary Notification, the Agency's refusal to disclose to CACI its concerns related to [REDACTED] credibility, as well as the other, extensive information withheld from CACI during the investigation, rendered CACI's opportunities to respond illusory. CACI had no opportunity to be heard with respect to many of the Agency's actual concerns because CACI was never notified of them.

199. The Agency's exclusion decision was also rendered arbitrary and capricious and an abuse of discretion by the unreasonable delay in conducting the investigation and reaching its determination—all of which made it impossible for CACI to address the Agency's actual concerns,

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and to adopt a mitigation plan. Had CACI been informed of the Agency's actual concerns and even then been unable to satisfy those concerns, it still could have mitigated the issue if it had been timely informed.

200. These same errors and omissions were in violation of the requirements of the FAR, including but not limited to FAR 9.504 which requires:

(a) Using the general rules, procedures, and examples in this subpart, contracting officers shall analyze planned acquisitions in order to-

(1) Identify and *evaluate potential organizational conflicts of interest as early in the acquisition process as possible*; ...

(d) In fulfilling their responsibilities for identifying and resolving potential conflicts, contracting officers should *avoid creating unnecessary delays*, burdensome information requirements, and excessive documentation. The contracting officer's judgment need be formally documented only when a substantive issue concerning potential organizational conflict of interest exists.

(e) The contracting officer shall award the contract to the apparent successful offeror unless a conflict of interest is determined to exist that cannot be avoided or mitigated. *Before determining to withhold award* based on conflict of interest considerations, the contracting officer *shall notify the contractor, provide the reasons therefor*, and allow the contractor a *reasonable opportunity to respond*. ...

(Emphasis added.)

201. The contracting officer failed to evaluate CACI's alleged conflict as early in the acquisition process as possible, unnecessarily delayed for months in starting and conducting the investigation, and failed to disclose to CACI the real reasons for excluding it and thereby failed to give CACI a reasonable opportunity to respond to them, in violation of FAR 9.504. Indeed, the contracting officer stated in the GAO protest that the procedural requirements of FAR subpart 9.5

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did not apply to and were entirely irrelevant to his investigation because he viewed the issue as governed by FAR subpart 3.1 rather than FAR subpart 9.5, “Organizational and Consultant Conflict of Interest.” This determination alone was a clear error of law. The numerous failures to follow the procedures required by the FAR render were material and prejudicial errors.

202. CACI has suffered competitive prejudice as a result of the Agency’s arbitrary, capricious, and illegal decision to exclude CACI from the competition. But for the Agency’s unnecessary delays and failure to resolve its concerns of unfair competitive advantage as early in the acquisition process as possible, CACI could have mitigated any perceived advantage by, for instance, installing a new proposal team that had not been exposed to [REDACTED].

203. Regardless, but for the Agency’s unreasonable withholding of the true nature of its concerns from CACI, CACI could have provided information that would have changed the contracting officer’s view, or it would have mitigated the issue..

204. As a result of each of the foregoing errors, CACI was excluded from even competing (far beyond the requisite “non-trivial” competitive injury). *See Weeks Marine, Inc.*, 575 F.3d at 1362 (establishing prejudice standard of “non-trivial competitive injury which can be redressed by judicial relief” for pre-award protests). That injury can be addressed by judicial relief through an injunction requiring the Agency to rescind the exclusion determination and to consider CACI’s proposal for award. *See id.* CACI was therefore prejudiced by the Agency’s errors.

205. The Court should issue a permanent injunction enjoining performance of any contract awarded under the Solicitation, requiring the Agency to rescind its decision to exclude CACI unfair competitive advantage and, to evaluate CACI’s proposal and consider it fully and fairly for award. CACI succeeds on the merits, as discussed above. CACI would be irreparably

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harm if the requested injunction is not granted because it will have lost the opportunity to fairly compete for the award and has no adequate remedy for that loss in the absence of an injunction. The balance of hardships favors CACI. There would be no significant harm to the Agency from an injunction requiring it to correct its own procurement errors. Indeed, there are likely months of proposal evaluation remaining, so adding CACI's proposal to the competition would not create delay. Further, the Government would benefit from an injunction by providing increased competition for this requirement. Lastly, the public interest would be better served by granting the injunction because the public's interest lies in preserving the integrity of competitive procurements.

COUNT II

The Agency's Determination to Exclude CACI Was Based on Clear Substantive Errors of Fact and Law and was Arbitrary and Capricious, and in Violation of Law

206. The allegations of paragraphs 1 through 205 are hereby incorporated by reference.

207. Aside from being procedurally deficient, the Agency's ultimate findings and conclusions and its determination to exclude CACI were substantively deficient as well. The facts in the record, as well as those the contracting officer ignored or failed to seek, do not support the contracting officer's determination that [REDACTED] afforded CACI an unfair competitive advantage by sharing with CACI non-public, competitively useful information.

208. As discussed above, it is undisputed that [REDACTED] did not possess nor did he share with CACI any PIA-covered information or any information related to the procurement in question: CHS-6.

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209. Furthermore, the contracting officer's investigation record did not identify any actual GDMS non-pricing related information that was contemporaneously marked as proprietary, shared or not. While GDMS made *post hoc* assertions in connection with its demand that CACI be excluded that a few pieces of its information were proprietary, the contracting officer failed to investigate whether the documents in question were truly proprietary and contemporaneously marked as such.

210. Finally, the contracting officer's conclusions that [REDACTED] must have shared GDMS's dated pricing information had no factual underpinning, was built only on unfounded suspicion and innuendo and lacked any rational basis. Moreover, it was refuted by hard facts, including sworn statements from CACI as well as [REDACTED].

211. CACI was competitively prejudiced by the Agency's arbitrary and capricious decision to exclude it. Being excluded from the competition certainly constitutes a non-trivial competitive injury. That injury can be addressed by judicial relief through an injunction requiring the Agency to rescind the exclusion determination and to consider CACI's proposal for award.

212. The Court should issue a permanent injunction enjoining performance of any contract awarded under the Solicitation, requiring the Agency to rescind its decision to exclude CACI unfair competitive advantage and, to evaluate CACI's proposal and consider it fully and fairly for award. CACI succeeds on the merits, as discussed above. CACI would be irreparably harmed if the requested injunction is not granted because it will have lost the opportunity to fairly compete for the award and has no adequate remedy for that loss in the absence of an injunction, while the Agency would not be harmed by an injunction because there are likely months of proposal evaluation remaining and the Government would benefit from an injunction by providing

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increased competition for this requirement. Lastly, the public interest would be better served by granting the injunction because the public's interest lies in preserving the integrity of competitive procurements.

COUNT III

The Agency's Determination to Exclude CACI Violated the Competition in Contracting Act

213. The allegations of paragraphs 1 through 212 are hereby incorporated by reference.

214. The Agency excluded CACI from the CHS-6 competition in violation of the Competition in Contracting Act ("CICA").

215. 10 U.S.C. § 3201(a)(1), part of CICA, requires an agency conducting a procurement for property or services to "obtain full and open competition through the use of competitive procedures" absent certain exceptions not relevant here.

216. For the reasons discussed above, the Agency's decision to exclude CACI from the CHS-6 competition due to an alleged "unfair competitive advantage" was arbitrary and capricious, an abuse of discretion and contrary to the FAR, including subpart 9.5, and the APA. Accordingly, the exclusion has no valid justification and, absent any CICA exception, constitutes an illegal violation of CICA's mandate for full and open competition.

217. The Agency's violation of CICA prejudiced CACI. CACI suffered a non-trivial competitive injury of being entirely excluded from the competition. That injury can be addressed by judicial relief through an injunction requiring the Agency to rescind the exclusion determination and to consider CACI's proposal for award.

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218. The Court should issue a permanent injunction enjoining performance of any contract awarded under the Solicitation, requiring the Agency to rescind its decision to exclude CACI unfair competitive advantage and, to evaluate CACI's proposal and consider it fully and fairly for award. CACI succeeds on the merits, as discussed above. CACI would be irreparably harmed if the requested injunction is not granted because it will have lost the opportunity to fairly compete for the award and has no adequate remedy for that loss in the absence of an injunction, while the Agency would not be harmed by an injunction because there are likely months of proposal evaluation remaining and the Government would benefit from an injunction by providing increased competition for this requirement. Lastly, the public interest would be better served by granting the injunction because the public's interest lies in preserving the integrity of competitive procurements.

PRAYER FOR RELIEF

WHEREFORE, CACI requests that this Court:

- i. Issue declaratory relief declaring that the Agency's determination to exclude CACI from the competition was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law and that CACI was competitively prejudiced by this improper action.
- ii. Issue declaratory relief that CACI is not excluded from the competition for CHS-6.
- iii. Issue a permanent injunction (a) to vacate any award of a contract the Agency makes under the Solicitation; (b) to require the Agency to rescind its decision to exclude CACI from the competition; (c) to require the Agency to allow CACI to fully participate in the CHS-6 procurement, including the opportunity to participate

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in the Question and Answer process, engage in discussions, and submit a revised proposal if warranted; and (d) to evaluate CACI's proposal and consider it fully and fairly for award.

- iv. Award CACI its bid preparation and proposal costs.
- v. Order such other and further relief as the Court deems just and proper.

Dated: March 6, 2023

HOLLAND & KNIGHT LLP

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