

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

No. 19-2326

ORACLE AMERICA, INC.

v.

UNITED STATES and AMAZON WEB SERVICES, INC.

DOCKETING STATEMENT

This Docketing Statement must be completed by all counsel and filed with the court within 14 days of the date of docketing. When the United States or its officer or agency is a party, this Docketing Statement must be completed by all counsel and filed with the court within 30 days of docketing. All questions must be answered or the statement will be rejected.

Name of the party you represent Oracle America, Inc.

Party is (select one)

☒ Appellant/Petitioner☐ Cross-Appellant☐ Appellee/Respondent☐ Intervenor

Tribunal appealed from and Case No.

U.S. Court of Federal Claims, Case No. 1:18-cv-01880-EGB

Date of Judgment/Order 07/17/2019

Type of Case Pre-Award Bid Protest, 28 U.S.C. 1491(b)

Relief sought on appeal Reversal, entry of judgment for Oracle, and termination of any award under the solicitation, remand in the alternative

Relief awarded below (if damages, specify) None

Briefly describe the judgment/order appealed from Oracle appeals a Court of Federal Claims ("COFC") July 12, 2019 Order, July 19, 2019 Opinion and Order (subsequently reissued publicly), and the associated entry of judgment. COFC erroneously denied Oracle's pre-award protest regarding the Joint Enterprise Defense Infrastructure ("JEDI") Cloud procurement. Although COFC correctly determined that DoD errantly relied on an inapplicable exception to the large, single award, indefinite-delivery, indefinite quantity contract prohibition, COFC erred in finding Oracle did not suffer prejudice. The Court also erred in its treatment of numerous, manifest conflicts of interest and in its determination that competition Gate Criterion 1.2 is lawful.

Nature of judgment (select one)

☒ Final Judgment, 28 USC 1295☐ Rule 54(b)☐ Interlocutory Order (specify type)☐ Other (explain; see Fed. Cir. R. 28(a)(5))

FORM 26. Docketing Statement**Form 26****Rev. 10/16**

Name and docket number of any related cases pending before this court plus the name of the writing judge if an opinion was issued.

If none, please state none. None

Brief statement of the issues to be raised on appeal (1) Whether COFC erred in finding that DoD's violation of

10 U.S.C. § 2304a(d)(3) did not prejudice Oracle; (2) Whether COFC erred in finding solicitation Gate Criterion 1.2 enforceable and consequently failing to redress Oracle's claims; (3) Whether COFC properly denied Oracle's conflicts of interest allegations despite (among other things) admitted violations of FAR 3.101-1 and potential violations of 18 U.S.C. § 208.

Have there been discussions with other parties relating to settlement of this case? ☐ Yes ☒ No If "yes," when were the last such discussions?

☐ Before the case was filed below?

☐ During the pendency of the case below?

☐ Following the judgment/order appealed from?

If "yes," were the settlement discussions mediated? ☐ Yes ☐ No

If they were mediated, by whom? N/A

Do you believe that this case may be amenable to mediation? ☐ Yes ☒ No

Please explain why you believe the case is or is not amenable to mediation.

To date, DoD has not acknowledged and continues to defend the illegal single award approach, flawed gate criteria, and conflicts of interest that taint the involved procurement.

Provide any other information relevant to the inclusion of this case in the court's mediation program.

Oracle is willing to participate in mediation.

I certify that I filed this Docketing Statement with the Clerk of the United States Court of Appeals for the Federal Circuit and served a copy on counsel of record, this

26th day of September, 2019

by: electronic delivery (case filing system)

(manner of service)

Craig A. Holman

/s/ Craig A. Holman

Name of Counsel

Signature of Counsel

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