

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

No. 2019-2326

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 party you represent: United States

Party is (select one): Appellant/Petitioner Cross-Appellant
 X Appellee/Respondent Intervenor

Tribunal appealed from and case no.: United States Court of Federal Claims, No. 18-1880C

Date of judgment/order: July 19, 2019 Type of case: Bid Protest

Relief sought on appeal: The United States seeks affirmance of the trial court's judgment.

Relief awarded below (if damages specify): None

Briefly describe the judgment/order appealed from:

The Court of Federal Claims denied the motion for judgment on the administrative record filed by plaintiff, Oracle America, Inc. (Oracle), and granted the cross-motions filed by the Government and defendant-intervenor, Amazon Web Services, Inc., concluding that, because Oracle could not meet an enforceable solicitation requirement, it could not demonstrate prejudice as a result of other alleged errors in the procurement process.

Nature of judgment (select one):

☒ Final judgment, 28 U.S.C. § 1295

☐ Rule 54(b)

☐ Interlocutory order (specify type) _____

☐ Other (explain – see Fed. Cir. R. 28(a)(5)) _____

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:

Whether the trial court properly concluded that Oracle failed to demonstrate that a particular solicitation requirement was irrational or illegal. Whether the trial court's conclusion that Oracle was not prejudiced by any other alleged errors in the procurement was clearly erroneous, where Oracle admitted that it could not meet this solicitation requirement.

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.

Both the Government Accountability Office and the trial court correctly denied Oracle's protests of this procurement, and we intend to defend the trial court's decision to deny Oracle injunctive relief. Accordingly, settlement is unlikely.

Provide any other information relevant to the inclusion of this case in the court's mediation program: N/A

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

25th day of September, 2019,

by: operation of the Court's electronic case filing system
(manner of service)

William P. Rayel
Name of counsel

/s/ William P. Rayel
Signature of counsel

Law firm: United States Department of Justice

Address: PO Box 480, Ben Franklin Station

City, State and ZIP: Washington, DC 20044

Telephone: (202) 616-0302

Fax #: (202) 307-0972

E-mail address: William.Rayel@usdoj.gov