

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
BID PROTEST**

AMAZON WEB SERVICES, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 19-1796C
	)	(Judge Patricia E. Campbell-Smith)
THE UNITED STATES,	)	
	)	
Defendant,	)	
	)	
and	)	
	)	
MICROSOFT CORPORATION,	)	
	)	
Intervenor-Defendant.	)	

**JOINT STATUS REPORT**

Pursuant to Rule 52.2(e) of the Rules of the United States Court of Federal Claims (RCFC) and the Court’s orders dated August 11, 2020 (ECF No. 218) and September 15, 2020 (ECF No. 220), the parties jointly and respectfully provide the following report concerning the conclusion of remand proceedings. On remand, the United States Department of Defense (DoD) proceeded to reconsider aspects of the procurement challenged in this protest action. Following a comprehensive re-evaluation of aspects of the proposals, DoD determined that Microsoft’s proposal continues to represent the best value to the Government. Pursuant to RCFC 52.2(d), the Government has filed the final decision document, under seal. ECF No. 221.

The parties have conferred and plaintiff, Amazon Web Services, Inc. (AWS), does not believe that the action on remand affords it a satisfactory basis for disposition of the case and, thus, that further proceedings of the Court will be required. As such, the parties have negotiated and agreed to the following proposed schedule of further proceedings in the case:

<b>ACTION</b>	<b>DATE</b>
Government Files the Amended Administrative Record	September 21, 2020 <sup>1</sup>
AWS Files its Amended (Supplemental) Complaint	October 9, 2020
Government and Microsoft File Renewed Motions to Dismiss; AWS Files Renewed Motion to Complete and/or Supplement AR and for Discovery	October 23, 2020
Parties File Oppositions to Renewed Motions	November 6, 2020
Parties File Replies in Support of Renewed Motions	November 13, 2020
The Court Resolves Renewed Motions	As soon as practicable; by December 4, 2020

**If the Court Does Not Grant Discovery or Significant Supplementation of the Record:**

AWS Files Motion for Judgment on the Administrative Record (MJAR)	December 23, 2020
Government and Microsoft File Cross-MJARs and Oppositions to AWS's MJAR	January 15, 2021
AWS Files Opposition to Cross-MJARs and Reply	January 29, 2021
Government and Microsoft File MJAR Replies	February 5, 2021

**If the Court Grants Discovery or Significant Supplementation of the Record:**

Discovery Ends; Government Files Administrative Record Supplements	As soon as reasonably practicable
AWS Files Motion for Judgment on the Administrative Record	21 days after completion of discovery/AR
Government and Microsoft File Cross-MJARs and Oppositions to AWS's MJAR	21 days after filing of AWS's MJAR
AWS Files Opposition to Cross-MJARs and Reply	14 days after filing of Government/Microsoft Cross-MJARs
Government and Microsoft File Replies	7 days after filing of AWS's response/reply

<sup>1</sup> DoD is currently conducting debriefings, which are not expected to be complete by this date. The Government anticipates moving for leave to add debriefing documents to the record within 3 business days of the close of the debriefing.

The proposed schedule reflects the need for expeditious resolution of this protest, noting that provision of this urgently needed capability continues to be stayed pursuant to the Court's preliminary injunction, issued February 13, 2020 (ECF No. 164), balanced with the need for full briefing of the issues. The parties do not currently envision filing other motions not reflected in the proposed schedule and, to the extent that unanticipated developments necessitate the filing of unexpected motions, the parties commit to make every attempt to resolve those matters within the framework of the schedule proposed.

s/ Kevin P. Mullen  
Kevin P. Mullen  
MORRISON & FOERSTER LLP  
2000 Pennsylvania Ave., NW  
Washington, DC 20006-1888  
Telephone: 202.887.1500  
Facsimile: 202.887.0763

*Attorney of Record for Plaintiff  
Amazon Web Services, Inc.*

Of Counsel For Plaintiff:

J. Alex Ward  
Daniel E. Chudd  
Sandeep N. Nandivada  
Caitlin A. Crujido  
Alissandra D. Young  
MORRISON & FOERSTER LLP  
2000 Pennsylvania Ave., NW  
Washington, DC 20006-1888

Andrew S. Tulumello  
Daniel P. Chung  
GIBSON, DUNN & CRUTCHER LLP  
1050 Connecticut Avenue, NW  
Washington, D.C. 20036

Respectfully submitted,

JEFFREY BOSSERT CLARK  
Acting Assistant Attorney General

ROBERT E. KIRSCHMAN, JR.  
Director

s/ Patricia M. McCarthy  
PATRICIA M. MCCARTHY  
Assistant Director

s/ Anthony F. Schiavetti  
ANTHONY F. SCHIAVETTI  
Senior Trial Counsel  
RETA E. BEZAK  
Trial Attorney  
U.S. Department of Justice  
Civil Division  
Commercial Litigation Branch  
PO Box 480  
Ben Franklin Station  
Washington, D.C. 20044  
Tel: (202) 305-7572  
Fax: (202) 305-1571  
anthony.f.schiavetti@usdoj.gov

*Attorneys for Defendant*

Theodore J. Boutrous, Jr.  
Richard J. Doren  
Eric D. Vandavelde  
GIBSON, DUNN & CRUTCHER LLP  
333 South Grand Avenue  
Los Angeles, CA 90071-3197

Of Counsel for Defendant:

MICHAEL G. ANDERSON  
BENJAMIN M. DILIBERTO  
Assistant General Counsel  
Washington Headquarters Service &  
Pentagon Force Protection Agency  
Office of General Counsel  
Department of Defense

TYLER J. MULLEN  
CCPO Legal Advisor  
Assistant General Counsel  
Defense Information Systems Agency  
Office of the General Counsel

s/ Robert S. Metzger  
Robert S. Metzger (Counsel of Record)  
Jeffery M. Chiow  
Neil H. O'Donnell  
Lucas T. Hanback  
Stephen L. Bacon  
Deborah N. Rodin  
Cassidy Kim  
Eleanor M. Ross  
ROGERS JOSEPH O'DONNELL, P.C.  
875 15th Street NW, Suite 725  
Washington, DC 20005  
Tel: (202) 777-8951  
Fax: (202) 347-8429  
Email: rmetzger@rjo.com

*Attorneys for Defendant-Intervenor  
Microsoft Corp.*

Of Counsel for Defendant-Intervenor:

LATHAM & WATKINS LLP  
Abid R. Qureshi  
Roman Martinez  
Anne W. Robinson  
Dean W. Baxtresser  
Genevieve Hoffman  
Riley Keenan

Margaret Upshaw

555 Eleventh Street, N.W., Suite 100  
Washington, D.C. 20004  
(202) 637-2200 (Telephone)  
(202) 637-2201 (Facsimile)

Dated: September 15, 2020