

**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,	)	
	)	
Defendant-Intervenor.	)	

**JOINT MOTION TO AMEND SCHEDULE**

Pursuant to Rules 6(b) and 6.1 of the Rules of the United States Court of Federal Claims (RCFC), defendant, the United States, plaintiff, Amazon Web Services, Inc. (AWS), and defendant-intervenor, Microsoft Corporation, respectfully request that this Court amend the schedule it set for the filing of the administrative record in this matter and for subsequent briefing related to supplementation thereof. Pursuant to the Court's order dated November 26, 2019, the administrative record is due on December 13, 2019; the plaintiff's motion to supplement the administrative record and/or for discovery is due on December 20, 2019; defendant and defendant-intervenor's responses to any such motion are due on January 3, 2020; and plaintiff's reply is due on January 10, 2020. Pursuant to this requested amendment, the administrative record would be due on January 3, 2020; the plaintiff's motion to supplement the administrative record and/or for discovery would be due on January 10, 2020; defendant and defendant-intervenor's responses to any such motion would be due on January 24, 2020; and plaintiff's reply would be due on January 31, 2020. In addition, the paper courtesy copy of the

administrative record would be due to the Court on January 10, 2020. This is the parties' first request for an amendment of the schedule.

Good cause exists to grant this motion. The administrative record in this case is extraordinarily voluminous, consisting of hundreds of individual documents, over 200,000 pages, and a large quantity of multimedia files. The record comprises a variety of file types and sizes, many of which present logistical issues in collecting, processing, preparing to be filed, and, we anticipate, in filing and transmitting the record to the Court and to the parties.

The United States has worked diligently in the preceding days and weeks, and continues to work diligently, to collect and prepare the record in its entirety. More time is needed, however, to ensure all documents that are properly part of the record are collected, organized, and prepared for filing.

Moreover, not only does the record consist of hundreds of files, those files come in a variety of formats and sizes. Many of the files, particularly the offerors' proposal materials, are extremely large, with some measuring in the gigabytes rather than megabytes. Included in the record are a number of video files, with the largest of these measuring over 12 gigabytes for an individual video file. This size renders the documents very difficult to transfer. Transferring the files from the Department of Defense to the Department of Justice has been significantly delayed by these challenges. This 12 gigabyte file, for example, will not pass through agency file transfer websites, nor will it fit on a single Digital Versatile Disc (DVD).

In addition to its ongoing efforts to collect and prepare the record, the United States is still considering the best way to file the record with the Court and transmit it to the parties. As discussed above, the record contains a number of video files. The United States has contacted

the Court's CM/ECF helpdesk regarding the filing of mp4 video files, and was informed that these files cannot be uploaded into the CM/ECF system. Even without the video content, the record comprises several hundred individual Portable Document Format (PDF) files, a number of which exceed – in some cases dramatically – the current maximum limit for a single PDF file for the Court's electronic filing (CM/ECF) system, set at 50 megabytes. *CM/ECF File Size Limit Increased to 50 MB*, U.S. Court of Federal Claims, *available at* <https://www.uscfc.uscourts.gov/node/2892>. The United States anticipates filing in the coming days a separate motion for relief proposing a method for filing the record that serves the interests of efficiency while ensuring a complete record is filed without inadvertently altering any of the files.

Additionally, the United States notes that a small quantity of documents that are part of the administrative record are classified. The United States is exploring the possibility of declassification of part or all of this material but, in the interim, is taking steps to ensure proper filing of this portion of the administrative record. Additional time is required to determine whether declassification is feasible and, if not or if not all material can be declassified, to ensure that all proper procedures are followed for the handling of this material.

Given the size of the record and the coming holidays, AWS has expressed concern that a shorter extension of the time for filing the administrative record might significantly curtail its ability to fully examine the record and to file its motion to supplement the record and/or for discovery in the one week period it had previously represented would be sufficient. This amended schedule would allay that concern by removing holiday personnel absences from the equation.

However, AWS has raised two additional concerns about which the parties have not agreed. First, AWS has requested two weeks, instead of just one, to review the administrative record and refile its Motion to Supplement or Complete the Record. Given the size of the administrative record, AWS anticipates it will require substantial effort to review the record to identify any missing information, as well as information that may further support its Motion to Supplement or Correct the Administrative Record. Accordingly, although AWS consents to the extension of time requested by the Government to produce the administrative record, AWS requests that Court revise the briefing schedule proposed by the Government to allow AWS to submit its Motion to Supplement or Correct the Administrative Record by January 17, 2020, with all subsequent briefing pushed back by the corresponding amount of time.

Second, the Government has represented to AWS that it is currently performing certain preparatory activities pursuant to its contract with Microsoft, and that it will continue to do so, but that it will not be in a position to place further substantive orders against the contract until February 11, 2020. AWS has requested that the Government commit to voluntarily stay the issuance of further substantive orders, which AWS considers could prejudice the relief available to AWS if it prevails in its protest, until March 11, 2020. In light of the urgent need for these services in support of the national security interests of the United States (which AWS disputes), the Government cannot agree. Given the Government's objection to this request, AWS has indicated that it is reserving its right to seek preliminary injunctive relief and a temporary restraining order if and when necessary.

Finally, the Court's November 26, 2019 order required the United States to file a paper courtesy copy of the administrative record within two business days of electronic filing. The

United States currently anticipates that the completed record will comprise in excess of 200,000 pages of printed material. Given this volume, the United States respectfully requests that the Court permit seven business days from the time of filing the administrative record to deliver a paper courtesy copy of the administrative record. The United States understands from our printing vendor that printing this quantity of paper will itself take at least 24 hours of continuous operation, after which the record must be organized into binders, tabbed, packaged, otherwise processed for delivery, and delivered. The United States also notes that, in the separate motion mentioned above, it will address the Court's requirement in its November 26, 2019 order that paper copies include the CM/ECF header, which, of course, would not be applied in the event that the Court were to permit to the filing of the administrative record by alternate means.

For these reasons, the parties respectfully request that the Court grant this joint motion to amend the schedule it set for the filing of the administrative record in this matter and for subsequent briefing related to supplementation thereof.

Respectfully submitted,

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