

***Office of Dispute Resolution for Acquisition***  
**Federal Aviation Administration**  
**Washington, D.C.**

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Protest of )  
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Harris IT Services Corporation. ) Docket No. 12-ODRA-00604  
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Pursuant to Solicitation DTFAWA-12-C-00043 )

**DECISION ON REQUEST FOR INTERVENTION**

This matter arises from a pre-award bid protest (“Protest”) filed on May 3, 2012 with the Federal Aviation Administration (“FAA”) Office of Dispute Resolution for Acquisition (“ODRA”) by Harris IT Services Corporation (“Harris”). The Protest stems from a decision by the FAA Integrated Services Team (“IST”) to exclude Harris from competing for an Enterprise Messaging System (“EMS”) contract for the FAA using commercially available cloud technology. Harris contends that it was improperly down selected during Phase II of a three phase acquisition process. According to Harris, the IST incorrectly concluded that the technical solution proposed by Harris failed to meet two of one hundred and fourteen required technical features for the EMS.

**I. Factual Background**

On or about May 8, 2012, Computer Sciences Corporation (“CSC”), which also is competing in the EMS acquisition, filed a letter with the ODRA seeking to intervene in the Harris Protest (“CSC Request”). *See* CSC Letter at 1. CSC stated that it “is an offeror under the Request for Offers at issue in this Protest, and as such is an ‘interested party’ who may intervene in the case.” *Id.* CSC cited to the ODRA Procedural Regulations at 14 C.F.R. § 17.3(m) and 17.15 (f) and (g). By letter of May 9, 2012, the ODRA directed that Harris and the IST file, by no later than Friday, May 11, 2012, any objections to the CSC Request. The ODRA further indicated that in the event of any

objection, CSC would be given an opportunity to respond prior to the ODRA ruling on the issue. *Id.* In so doing, the ODRA noted that “inasmuch as this is a pre-award Protest, such intervention is at the discretion of the ODRA, rather than as a matter of right.” *Id.* On May 11, 2012, Harris submitted its formal objection to the CSC Request (“Objection”). By letter of May 11, 2012, the IST stated that it had no objection to CSC’s Request.

The Harris Objection notes that “CSC is merely one of a number of offerors in the procurement; it is not the contract awardee.” *See* Harris letter at 2. Harris goes on to assert that in its view CSC has no direct economic interest and that there will be no discernible benefit to CSC’s intervention. *Id.* “CSC has no knowledge regarding the subject matter of Harris’ protest, much less any knowledge of or insight into Harris’ proposed solution and the FAA’s evaluation of the solution.” *Id.* Finally, Harris notes that participation by CSC would complicate and increase the time and expense necessary to complete the adjudication. *Id.*

By letter of May 15, 2012, CSC replied to the Harris objection (“CSC Reply”). The CSC Reply concurs that the ODRA Procedural Regulations “do not contemplate intervention as a matter of right in pre-award Protests....” *See* CSC Reply at 1. CSC contends, however, that it meets the requirement for being an interested party in this case. *Id.* The CSC Reply primarily is based on its contention that as a competitor continuing to the final phase of the evaluation process, it has an interest “in protecting its position within this acquisition.” *Id.*

## **II. Discussion**

The requested intervention of CSC in this pre-award Protest is a matter within the ODRA’s sound exercise of discretion. *See* ODRA Procedural Regulations at 14 C.F.R. §§17.3(m) and (n); 17.15(g). Section 17.3(m) defines an interested party as “one whose direct economic interest has been or would be affected by the award or failure to award an FAA contract.” Section 17.3(n) defines an intervenor as “an interested party other

than the Protester whose participation in a Protest is allowed by the ODRA.” In addition, Section 17.15(g) expressly provides that: “the ODRA has discretion to designate the parties who shall participate in the process as intervenors.” *See* 14 C.F.R. § 17.15(g).

Where an intervention is discretionary as opposed to a matter of right, the ODRA has established that it will seek to determine whether a benefit to the adjudication process will be obtained by permitting the intervention. *See* Camber Corporation and Information Systems and Information Systems and Network Corporation, 98-ODRA-00079, 98-ODRA-00080 (Consolidated) (Decision on Request for Intervention, dated July 6, 1998). The ODRA also will consider in such a situation whether participation of the intervenor would “adversely impact the prompt resolution of the matter.” *See* Contest of Agency Tender Official James H. Washington and Kate Breen, 05-ODRA-00342 and 05-ODRA-00343 (Consolidated) (Decision on Request for Intervention, dated March 28, 2005).

Under the circumstances here, the ODRA declines to exercise its discretion to permit the intervention of CSC in the Protest. The issues presented in the Protest concern whether the proposed technical solution of Harris satisfies the technical requirements of the Solicitation and whether the IST had a rational basis for down selecting Harris without discussing with Harris the compliance of its proposed solution with the Solicitation. The issues presented are limited to matters that directly involve only the Harris proposal. Therefore, the ODRA can discern no benefit to the adjudication process that would result from permitting CSC to intervene. Rather, in the ODRA’s view, such intervention would only serve to render the process less efficient and more time consuming. Moreover, there is no indication that CSC would suffer prejudice of any kind by not being permitted to intervene at this stage of the pre-award Protest of an ongoing acquisition process.

### **III. Conclusion**

For all the reasons set forth above the ODRA declines to exercise its discretion to permit CSC to intervene in this Protest. The CSC Request therefore is denied.

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Anthony N. Palladino  
Director and Administrative Judge  
FAA Office of Dispute Resolution for Acquisition  
May 17, 2012