

INFO PAPER: UPCOMING JEDI CLOUD LITIGATION MILESTONE

The Court of Federal Claims (COFC) will make a significant ruling within the coming weeks related to the Joint Enterprise Defense Infrastructure (JEDI) Cloud contract post-award protest. The ruling is on the Government's Motion to Dismiss, in Part, Count Four of Amazon Web Services (AWS)'s protest complaint. **Count Four** relates to AWS's allegation of improper influence at the highest levels of Government that, allegedly, unfairly affected the outcome of the JEDI Cloud competition. The parties are now waiting for the Court's ruling.

Regardless of the JEDI Cloud litigation outcome, the Department **continues to have an urgent, unmet requirement**. Specifically, the Department's need for an enterprise-wide, commercial cloud services for all three classification levels, extending from the homefront to the tactical edge, at scale. We remain fully committed to meeting this requirement—we hope through JEDI—but this requirement transcends any one procurement, and we will be prepared to ensure it is met one way or another.

Scenario 1 - Court Grants Motion to Dismiss, in Part, Count Four of AWS's claim relating to improper influence

Outcome. Count Four of AWS's complaint would **no longer be an allegation** for the Court's consideration. The protest litigation would continue as there are still three other counts within AWS's complaint related to the rationale of the evaluation and award decision. While we cannot say with certainty how much longer the litigation will last, we expect this process to follow other types of post-award protests, which average four to five months at the Court. Work on JEDI Cloud would continue to be paused until the litigation process is complete, and DISA/CCPO remains ready to resume management of the JEDI Cloud work if/when the entire set of litigation is resolved in the Government's favor.

Scenario 2 - Court Denies Motion to Dismiss, in Part, Count Four of AWS's claim relating to improper influence

Outcome. Count Four of the AWS complaint **remains a part** of the litigation. This Count will need to be substantively litigated and arguments over other Motions, in particular, a Motion for Discovery, which will include requests for depositions of senior officials at the White House and DoD, including former DoD and White House Senior Officials. These motions will be complex and elongate the timeline significantly. The prospect of such a lengthy litigation process might bring the future of the JEDI Cloud procurement into question. Under this scenario, the DoD CIO would reassess the strategy going forward. Whatever the outcome, the Department's **unsolved capability gaps** would still remain for enterprise wide, commercial cloud services - at all three classification levels - stretching from the homefront to the tactical edge - at scale.