

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
Bid Protest**

WORKHORSE GROUP INC.,)	
)	
Plaintiff,)	Case No. <u>21-1484 C</u>
)	
v.)	Judge _____
)	
THE UNITED STATES,)	
)	
Defendant.)	
)	

PLAINTIFF’S MOTION FOR LEAVE TO FILE UNDER SEAL

Pursuant to Appendix C of the Rules of the United States Court of Federal Claims (“RCFC”), Plaintiff Workhorse Group Inc. (“Workhorse”) respectfully requests leave to file its Bid Protest Complaint and Proposed Redacted Complaint under seal.

Workhorse’s Complaint contains confidential and proprietary source selection and proposal information, the public release of which would cause severe competitive harm. The record in this bid protest proceeding will contain—or is likely to contain—confidential source selection information, as well as confidential and proprietary information of other offerors who submitted proposals during the subject procurement.

Additionally, some or all of the information in the Complaint is subject to a Non-Disclosure Agreement (“NDA”) that the United States Postal Service (“USPS”) required Workhorse to in connection with the solicitation at issue, Solicitation No. 3D-20-A-0031. In light of the breadth of the NDA and USPS’s previous accusations that Workhorse has breached the NDA, Workhorse believes that the USPS may take the position that the NDA prohibits Workhorse from disclosing

any of the information contained in the Complaint in its entirety. Workhorse disagrees with that position and believes that the NDA is unenforceable in whole or in part.

Pursuant to Appendix C, Workhorse is also filing a proposed redacted version of its Complaint that redacts the information that Workhorse believes requires protection. Workhorse has not redacted information that USPS may contend cannot be disclosed pursuant to the NDA. Workhorse, accordingly, requests that the Court seal the Proposed Redacted Complaint until the parties' counsel can agree on a public copy.

For the foregoing reasons, Workhorse respectfully requests that the Court grant its Motion for Leave to File Under Seal.

Dated: June 16, 2021

Respectfully submitted,

/s/ Thomas P. McLish

Thomas P. McLish

tmclish@akingump.com

AKIN GUMP STRAUSS HAUER & FELD LLP

2001 K Street NW

Washington, D.C. 20006

(202) 887-4000 (Tel)

(202) 887-4288 (Fax)

Attorney for Workhorse Group Inc.

Of Counsel:

Scott M. Heimberg

sheimberg@akingump.com

Samantha J. Block

samantha.block@akingump.com

McKenzie F. Miller

mckenzie.miller@akingump.com

Madeline M. Bardi

mbardi@akingump.com