

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

|                      |   |                |
|----------------------|---|----------------|
| INSERSO CORPORATION, | ) |                |
|                      | ) |                |
| <i>Plaintiff,</i>    | ) |                |
|                      | ) |                |
| v.                   | ) | No. 23-1140C   |
|                      | ) | Judge Bruggink |
|                      | ) |                |
| UNITED STATES,       | ) |                |
|                      | ) |                |
| <i>Defendant.</i>    | ) |                |
|                      | ) |                |

**PLAINTIFF’S MOTION FOR VOLUNTARY DISMISSAL**

Pursuant to Rules 7 and 41(a)(2) of the Rules of the United States Court of Federal Claims, Plaintiff Insero Corporation (“Insero”), by and through counsel, hereby respectfully moves for voluntary dismissal without prejudice.

On July 24, 2023, Insero filed its Complaint (ECF No. 1) in the above-captioned protest, in which Insero alleged that the National Institutes of Health, Acquisition and Assessment Center (“NIH” or the “Agency”), improperly reduced the scores assigned to Insero’s proposal under Solicitation No. 75N98121R00001 (the “Solicitation”) in a manner that resulted in Insero not advancing to Phase II of the competition. Insero’s Complaint requested that the Court issue a permanent injunction (i) enjoining NIH from proceeding with the procurement based on Insero’s erroneously awarded Phase I scores; and (ii) requiring NIH to reevaluate Insero’s proposal in accordance with the Solicitation and applicable law.

On September 15, 2023, counsel for the Department of Justice (“DOJ”) informed counsel for Insero that NIH was taking corrective action in response to Insero’s protest. According to DOJ counsel, NIH will reevaluate Insero’s Phase I proposal and consider the AFCEC ITSS contract without limiting its dollar value to only those orders performed between May 25, 2018

and May 25, 2021. The reevaluation will include Inerso's proposal, the proposal submitted by a joint venture that Inerso was a member of that also used the AFEC ITSS contract as an experience example, and any other offerors that included requirements contracts in their Phase I proposals. After the reevaluation is complete, NIH will make a new determination as to which offerors should advance to Phase II of the competition. Additionally, the Notice of Corrective Action (ECF No. 20) states that NIH "anticipates commencing corrective action with respect to Inerso on September 15, 2023."

The Agency's corrective action appears to moot Inerso's protest, as NIH has represented that it will reevaluate Inerso's proposal in accordance with the interpretation set forth in Inerso's Complaint and Memorandum in Support of its Motion for Judgement on the Administrative Record (ECF No. 16) and make a new determination as to which offerors will advance to Phase II. Accordingly, Inerso requests that the Court dismiss Inerso's protest without prejudice. Inerso respectfully reserves the right to challenge the Agency's corrective action in the event that it is conducted in a manner that is arbitrary, capricious, contrary to law or the terms of the Solicitation, or amounts to abuse of discretion.

Respectfully submitted,

s/Richard P. Rector  
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Dated: September 19, 2023

**CERTIFICATE OF FILING**

I hereby certify that on September 19, 2023, a copy of the foregoing was filed using the Court's Electronic Filing system. I understand that notice of this filing will be served on the counsel to the parties to this case via the Court's ECF system.

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