

GOVERNMENT GAMESMANSHIP IN BID PROTESTS IS UNACCEPTABLE

Copyright 2026 Richard D. Lieberman

The following is an order issued by David A. Tapp, Judge in the Court of Federal Claims, concerning a bid protest, *Global Connections to Employment, Inc. v. United States*, No. 26-301 (Fed. Cl. April 2, 2026) (internal citations omitted):

Zealous advocacy does not license gamesmanship. At 5:03 PM on March 30, 2026, the day the Administrative Record was due in this matter the Government filed a Motion to Stay Proceedings Pending an Agency Administrative Decision. According to the Government, the Defense Counterintelligence and Security Agency (“DCSA”) submitted a request to the AbilityOne Commission Ombudsman (the “Ombudsman”) seeking a ruling on the services at issue in this bid protest. That request was submitted on March 3, 2026, *twenty-seven days prior to the Government’s last-minute untimely motion to stay*.

In plain language, there is no readily apparent excuse for the Government waiting until after normal business hours on the last possible day to seek leave from the Court to blow past the deadline for filing the Administrative Record, thereby disrupting *every* subsequent deadline. In addition, the Government seeks to leverage the Ombudsman’s forthcoming decision into a sixty-five day stay, none of it attributable to a request for remand, nor with the assent of Plaintiff. In sum, the Government ignored the Court’s scheduling Order, granted itself an enlargement, and disrupted the long-held standard that bid protests are resolved on an expedited basis. This conduct is unsupportable.

Plaintiff characterizes the Government’s untimely Motion as “disingenuous” and “inappropriate. The Court agrees. Such blatant circumvention of Court-ordered deadlines is inexcusable. The Government’s eleventh-hour filing, presented under the guise of diligence and judicial “economy[,]” is nothing more than an attempt to run out the clock. Twenty-seven days elapsed between DCSA’s submission to the Ombudsman and the Government’s Motion.. The Government had ample time to file its Motion to Stay and ample time to file its Administrative Record. This is to say nothing of the fact that the dates in question were *jointly* proposed by counsel in an e-mail to Chambers. And yet, the Government chose

to completely disregard the Court's Order adopting the parties' proposed schedule in full. In any proceeding, the Court expects respect for opposing counsel and fidelity to the procedural rules that make fair litigation possible. The Government's conduct has fallen short of both obligations.

Therefore, the Government's Motion to Stay is **DENIED**.

Judge Tapp required the Government to file the Administrative Record 24 hours later, and issued a new schedule for the proceedings. The judge also ordered the Government to show cause as to why it should not bear the reasonable costs associated with drafting and submitting Plaintiff's Response.

Takeaway. Parties at the Court of Federal Claims should take care not to "blatantly circumvent court-ordered deadlines" as the Government did in this case. This was inexcusable-especially when government counsel had 27 days to submit the motion in a timely manner, but failed to do so, as the court stated "in an attempt to run out the clock." This type of government conduct and gamesmanship is rare, but this order serves as a strong warning to counsel for both sides—"the Court expects respect for opposing counsel and fidelity to the procedural rules that make fair litigation possible."

For other helpful suggestions on government contracting, visit:
Richard D. Lieberman's FAR Consulting & Training
at <https://www.richarddlieberman.com/>, and **Mistakes in Government Contracting**
at <https://richarddlieberman.wixsite.com/mistakes>