In the United States Court of Federal Claims

No. 24-365

(Filed: May 6, 2024)

AIRBOSS DEFENSE GROUP, LLC,	)
Plaintiff,	)
and	)
STRING KING LACROSSE LLC,	)
Plaintiff-Intervenor,	)
v.	)
UNITED STATES,	)
Defendant,	)
and	)
NEW YORK EMBROIDERY STUDIO, INC.	)
Defendant-Intervenor.	)

ORDER

Pending before the court is plaintiff and plaintiff-intervenor's joint motion to reinstate the requirement for defendant to file the administrative record in this case. ECF No. 41. Plaintiff and plaintiff-intervenor move the court to "reinstate in part the [c]ourt's April 22, 2024 [s]cheduling [o]rder (ECF No. 36) and direct the [g]overnment to file the administrative record on or before May 10, 2024." *Id.* at 1. Plaintiff and plaintiff-intervenor provide three contentions in support of their motion. First, they aver that "as the [c]ourt recognized in its April 29 [o]rder, [d]efendant's April 26, 2024 [s]tatus [r]eport was, in fact, a motion." *Id.* at 2. Second, they assert that "nothing changed in the four days between the [c]ourt's April 22, 2024 [s]cheduling [o]rder (ECF No. 36), which directed the [g]overnment to file the administrative record on May 3, and [d]efendant's April 26 [s]tatus [r]eport." *Id.* Finally, plaintiff and plaintiff-intervenor articulate that they "were forced to file the instant protests because HHS failed to take the corrective action that it told the Government Accountability Office ('GAO') it would take on October 23, 2023." *Id.* at 4.

Plaintiff and plaintiff-intervenor acknowledge that they "appreciate the [c]ourt's desire to avoid needless litigation, and do[] not oppose a temporary suspension of further litigation, including briefing on cross-motions for judgment on the administrative record," but nonetheless assert that "[p]roceeding with the filing of the administrative record, however, imposes no burden whatsoever on the [g]overnment or the [c]ourt." *Id.* at 4. Plaintiff and plaintiff-intervenor indicate that they have notified defendant and defendant-intervenor of this motion, and that "[d]efendant indicated that it does not consent to [p]laintiffs' [m]otion," while defendant-intervenor "indicated that it had no position on the issue and defers to the [c]ourt's preference." *Id.* at 5.

Ultimately, while the court maintains that all other proceedings in this case will remain suspended, the court concurs with plaintiff and plaintiff-intervenor's assertion that "reinstating the requirement to file the administrative record will facilitate the orderly resolution of these protests," and that reinstating this requirement ought not pose an undue burden to defendant, given that plaintiff "filed its [c]omplaint two months ago, and the administrative record was due on May 3, so the record presumably has been assembled and all that is left is the ministerial task of filing it with the [c]ourt." *Id.* at 4-5.

For good cause shown, plaintiff and plaintiff-intervenor's motion to reinstate the requirement that defendant file the administrative record in this case is GRANTED. Defendant is DIRECTED to file the administrative record for this case by May 10, 2024.

It is so **ORDERED**.

s/ Charles F. Lettow
Charles F. Lettow
Senior Judge