

In the United States Court of Federal Claims

NOT FOR PUBLICATION

No. 09-602C

(Filed November 18, 2009)

\*\*\*\*\*

USFALCON, INC.,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

\*\*\*\*\*

**ORDER**

At yesterday’s hearing on the parties’ motions for judgment on the administrative record, the Court ruled upon several pending motions. Defendant’s motion to exceed the page limit for its reply brief (Docket No. 38) is **GRANTED** without opposition. Plaintiff’s motion to add the affidavit of Peter von Jess, its Chief Executive Officer, to the papers in support of its motion for judgment (Docket No. 31), is **GRANTED**. The affidavit addresses an injunctive relief factor -- the potential harm to the Government and the public -- and thus may appropriately be added to the record before the Court, although not as a supplementation of the administrative record. *See AshBritt, Inc. v. United States*, 87 Fed. Cl. 344, 366-67 (2009). The relevance or admissibility of any of the statements in the affidavit will be considered in the context of the injunctive relief determination, if necessary. As a consequence, defendant’s motion to add the declaration of Dwayne Terry to the papers in support of its cross-motion for judgment (Docket No. 30) is **GRANTED** without opposition. Plaintiff’s motion to add Amendment 0012 to the record (Docket No. 37) is **GRANTED** as consented to by defendant -- that is, the document is part of the Court’s record as evidence relating to the relief sought, and not as a part of the administrative record. And defendant’s motion to add to the Court’s record two documents which relate to Amendment 0012 (Docket No. 40) is **GRANTED** without opposition.

**IT IS SO ORDERED.**

s/ Victor J. Wolski

**VICTOR J. WOLSKI**

Judge