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payloads by arguing that such favoritism is permitted if done for "the competitive merits."⁴ Such a reading would be completely contrary to the key substantive provisions of the Order - which prohibit Northrop Grumman from favoring itself "on any basis" (see §IV.B.(1)(a), (b), emphasis added). Moreover, the term "competitive merits" is ambiguous and nowhere explained in the Consent Order or in the CIS. Therefore, the entire phrase "for any reason other than the competitive merits" must be stricken from definition N (at least as applied to Section IV.B.) as both contrary to the key substantive non-discrimination rules of the Order and as ambiguous. Given that the non-discrimination provisions are the "central" provisions of the Order, no phrase should be allowed in any definition that could give Northrop Grumman opportunity to evade those "central" requirements.

D. Additional Time Should Be Provided For Teaming Agreement Reviews

The proposed Order provides that teaming agreements between Northrop Grumman and competing primes are to be submitted for approval to a Compliance Officer who shall have five (5) business days to review them. If the Compliance Officer does not approve a given teaming agreement, the matter will be submitted to the Secretary of the Air Force who shall have five (5) business days to determine the terms on which Northrop Grumman shall enter into teaming agreements. See §IV.B.(1)(c).

If the Compliance Officer determines that Northrop Grumman has discriminated in favor of its in-house proposal team, failed to negotiate a teaming agreement in good faith or refused to enter into a teaming agreement, the Compliance Officer shall refer the matter to the Secretary of the Air Force, who shall have five (5) business days to decide with whom and on what terms Northrop Grumman enters into teaming relationships. See §IV.B.(2).

We urge that the time periods described above be doubled to provide the Compliance Officer ten (10) business days to review teaming agreements and provide the Secretary of the Air Force ten (10) business days to review any recommendation of the Compliance Officer. Given the importance of this matter, and the demands on the Compliance Officer and Air Force Secretary, we believe this additional time is warranted.

⁴ Definition N states, inter alia, that "Discriminate" "means to choose or advantage Northrop, or to reject or disadvantage a Northrop Prime or Payload Competitor, in the procurement process for any reason other than the competitive merits" (emphasis added).