

No. 20-1057

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**In the Supreme Court of the United States**

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ORACLE AMERICA, INC.,  
PETITIONER,

*v.*

UNITED STATES AND AMAZON WEB SERVICES, INC.

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*ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT*

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**REPLY BRIEF FOR PETITIONER**

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Unless this Court intervenes, a \$10 billion government contract will proceed with an admittedly unlawful structure, secured through the criminal misconduct of agency officials. The government’s defense of that result—in which the Federal Circuit misapplied two of this Court’s decisions—inverts fundamental separation-of-powers principles: It urges judicial intervention where Congress mandated agency decision-making, and judicial abdication where Congress required oversight.

The government does not dispute the importance, recurrence, or timeliness of the questions presented, but instead argues the merits. Its response confirms that the legal issues are joined, ripe, and cleanly presented for review.

### **I. The Harmless-Error Ruling Warrants Review**

Agencies are fallible. And when they err, administrative law imposes dual obligations on a reviewing court: First, “[t]he grounds upon which an administrative order must be judged are those upon which the record discloses that its action was based.” *SEC v. Chenery Corp.*, 318 U.S. 80, 87 (1943). Second, “due account [must] be taken of the rule of prejudicial error.” 5 U.S.C. §706. The question is whether the Federal Circuit has reconciled those two principles appropriately.

(1)

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