U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548
Comptroller General
of the United States

Decision

Matter of: ABSS Solutions, Inc.; CICONIX LLC

File: B-423805; B-423805.2

Date: December 16, 2025

Lewis P. Rhodes, Esq., Reston Law Group, LLP, for the protesters.
Jason R. Smith, Esq., Defense Health Agency; and Tanner M. Hatch, Esq., Small Business Administration, for the agencies.
Uri R. Yoo, Esq., and Alexander O. Levine, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protests alleging that agency failed to comply with Small Business Administration (SBA) regulations when awarding a sole-source contract to an Alaska Native Corporation is denied where the record reflects that the requirement was not previously competed within the SBA's section 8(a) program.

DECISION

ABSS Solutions, Inc., a small business of Upper Marlboro, Maryland, and CICONIX LLC, a small business of Annapolis, Maryland, protest the decision of the Department of Defense, Defense Health Agency (DHA) to award a sole-source contract for technical and professional research support services to Chenega Reliable Services, LLC, an Alaska Native Corporation (ANC) of Anchorage, Alaska, under the Small Business Administration's (SBA) section 8(a) program. The protesters contend that the award of the contract on a sole-source basis is improper because it violates SBA regulations.

We deny the protests.

BACKGROUND

On September 8, 2020, DHA awarded a contract to ABSS to provide science technology and research team (START) support services for the Air Force medical service's research and development efforts. ABSS Protest at 2. The contract was awarded after a competition conducted under the SBA's 8(a) program. *Id.*; Early Document Production, Exh. 2, Offer Letter to SBA at 3. CICONIX performed under the contract as ABSS's subcontractor. CICONIX Protest at 2.

In September 2024, shortly before the 2020 contract was set to expire, the agency awarded a "bridge" contract to ABSS on a sole-source basis for a period of 12 months, from September 26, 2024, through September 25, 2025.[1] ABSS Protest exh. 1, Justification and Approval (J&A) at 1. The agency stated in its J&A for the sole-source award that ABSS, "[a]s the incumbent contractor, . . .[was] the only capable source poised to provide continuity of services until a competitive, follow-on acquisition can be completed." *Id.* at 2. The J&A further explained that ABSS was the only contractor with the ability to seamlessly continue this service "while a competitive follow-on effort is solicited, evaluated, and awarded." *Id.* at 3. As relevant here, the J&A also stated that "[a]ctions will be taken to publicize and conduct [the follow-on] competitive acquisition process to promote effective competition." *Id.* at 2. In this regard, the J&A explained that a "Request for Information (RFI) was posted to the Government Point of Entry, SAM.gov, on 10 June 2024 and 19 responses were received." *Id.* at 3. The agency stated that "[r]esponses received from this RFI will be used for market research on the follow-on contract action." *Id.* at 3.

On December 23, the agency posted a second RFI. DHA Resp. to SBA Comments, attach. 1, December RFI at 1. The December RFI again sought capability statements from 8(a) small business vendors to perform the START requirements for the Air Force's medical service. *Id.* at 2. The RFI informed vendors that the agency anticipated soliciting for the award of an indefinite-delivery, indefinite-quantity (IDIQ) contract with a 60-month ordering period. *Id.* at 2; *see* RFI No. HT9425-25-RFI-START, Dec. 23, 2024, at https://sam.gov/workspace/contract/opp/7b79dacb19ac409f95f233a7bd7d9627/ view (last visited on Nov. 17, 2025).

On June 24, 2025, the agency submitted an offer letter to the SBA requesting acceptance of the follow-on START requirement under the SBA's 8(a) program for a sole-source award to Chenega as a designated ANC. Early Document Production, Exh. 2, Offer Letter to SBA at 1. The offer letter contemplated a contract with a 12-month base period, a 12-month option period, and one additional 6-month option period, that had an estimated total price of $19,838,707, inclusive of all option periods. *Id.* at 2. The agency also informed the SBA that the requirement was a "follow-on contract," and that the incumbent effort was being performed by ABSS under a sole-source bridge contract. *Id.* at 1-2. The offer letter noted that DHA had initially planned the follow-on requirement to be a "$100 million [IDIQ contract] which included many other task areas and three additional years of performance," and that the "intent was to award the contract as a competitive 8(a) set-aside." *Id.* at 3. The agency explained that "given the current fiscal uncertainty, the requirement has been significantly descoped to reduce risk and remove work that will likely no longer be

[1] For clarity in discussing the contracts at issue in this dispute, we adopt the agency's use of the term "bridge contract" to refer to a short-term contract awarded on a sole-source basis to a contractor to avoid a lapse in service caused by a delay in awarding a follow-on contract.

required," and that DHA "decided that pivoting to a strategy of issuing a directed award to a Tribal 8(a) business is in the Government's best interest." *Id.*

On June 24, the SBA accepted the agency's offer on behalf of Chenega. Early Document Production, Exh. 4, SBA Acceptance Letter at 1. These protests followed.

DISCUSSION

ABSS and CICONIX assert that DHA's decision to award the contract to Chenega on a sole-source basis was improper because the agency is required to conduct the procurement as a competition among eligible 8(a) program participants. ABSS Protest at 3; CICONIX Protest at 3-4. Specifically, the protesters contend that a sole-source award violates the SBA's regulations at 13 C.F.R. section 124.506(b). *Id.* In this regard, the protesters argue that, because the agency previously evidenced its intent to fulfill the requirement as a competitive 8(a) procurement, it cannot subsequently remove the requirement from competition and award the requirement on a sole-source basis to an ANC. *Id.* As discussed below, we find no basis to sustain the protest.

Section 8(a) of the Small Business Act authorizes the SBA to contract with other government agencies and to arrange for the performance of those contracts *via* subcontracts awarded to socially and economically disadvantaged small businesses. 15 U.S.C. § 637(a). The Act affords the SBA and contracting agencies broad discretion in selecting procurements for the section 8(a) program; our Office will not consider a protest challenging a decision to procure under the section 8(a) program absent a showing of possible bad faith on the part of government officials or that regulations may have been violated. 4 C.F.R. § 21.5(b)(3); *B&D Consulting, Inc.,* B-413310 *et al*., Sept. 30, 2016, 2016 CPD ¶ 280 at 4.[2]

The applicable section 8(a) regulation provides that, generally, a procurement for services exceeding certain specified thresholds must be competed among qualified 8(a) program participants. 13 C.F.R. § 124.506(a)(2). The regulation contains an exemption from the applicable dollar value thresholds for competition when awarding a sole-source 8(a) contract to a tribally owned entity, an ANC, or a native Hawaiian organization (NHO) under certain circumstances. *Id*. at § 124.506(b). The regulation provides, in relevant part, as follows:

[2] For this reason, we decline to dismiss the protest as legally and factually insufficient as requested by the agency. *See* Dismissal Req. at 1-3. Because the protest turns upon a question of fact--whether the sole-source contract the agency intends to award to Chenega is for the same requirement that has been previously offered to the SBA for competition within the 8(a) program--the protest is appropriate for resolution on the merits. *See UpSlope Advisors, Inc.*, B-419036, B-419036.2, Nov. 25, 2020, 2020 CPD ¶ 388 at 4 n.3.

> (b) Exemption from competitive thresholds for Participants owned by Indian Tribes, ANCs and NHOs.
>
> (1) A Participant concern owned and controlled by an Indian Tribe or an ANC may be awarded a sole source 8(a) contract where the anticipated value of the procurement exceeds the applicable competitive threshold if SBA has not accepted the requirement into the 8(a) [business development] program as a competitive procurement.
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> (3) There is no requirement that a procurement must be competed whenever possible before it can be accepted on a sole source basis for a tribally-owned or ANC-owned concern . . .. However, a current procurement requirement may not be removed from competition and awarded to a tribally-owned, ANC-owned or NHO-owned concern on a sole source basis (i.e., a procuring agency may not evidence its intent to fulfill a requirement as a competitive 8(a) procurement, through the issuance of a competitive 8(a) solicitation or otherwise, cancel the solicitation or change its public intent, and then procure the requirement as a sole source 8(a) procurement to an entity-owned Participant). A follow-on requirement to one that was previously awarded as a competitive 8(a) procurement may be offered, accepted and awarded on a sole source basis to a tribally-owned or ANC-owned concern. . . .

13 C.F.R. § 124.506(b).

ABSS and CICONIX first argue that the agency cannot award the instant requirement as an 8(a) sole-source contract because the same requirement was previously competed as a competitive 8(a) procurement when the agency competed and awarded the 2020 contract to ABSS. ABSS Protest at 3; CICONIX Protest at 3. In this regard, the protesters argue that the agency publicly evidenced its intent to fulfill the follow-on requirement here as a competitive 8(a) procurement when it: (1) issued the June 2024 RFI seeking 8(a) participants capable of performing the follow-on requirement; and (2) published the J&A for the sole-source bridge contract to ABSS stating its intent to issue the follow-on contract as a "new full and open competitive re-compete action." *Id.*; *see* ABSS Protest exh. 1, J&A at 3.

The agency contends that the protesters' arguments are legally and factually insufficient because the follow-on requirement at issue has not been offered or accepted by the SBA for an 8(a) competition and thus is not required to be competed among 8(a) participants. Dismissal Req. at 2. In this regard, the agency argues that statements found in the RFI and the J&A for the preceding bridge contract are insufficient to "evidence its intent to fulfill a requirement as a competitive 8(a) procurement." *Id.*; 13 C.F.R. § 124.506(b)(3). The agency further asserts that the plain language of the

regulation allows a follow-on requirement, previously awarded as a competitive 8(a) procurement, to be awarded on a sole-source basis to an ANC-owned concern. *Id.*

At our Office's invitation, the SBA provided its views on this protest. The SBA takes the position that DHA did not violate SBA regulations in issuing the sole-source award to an 8(a)-firm owned by an ANC because the award was for a new requirement, a requirement different from the one the agency initially may have intended to procure through competition. SBA Comments at 1-2. In this regard, the SBA notes that, under 13 C.F.R. section 124.506(b)(3), "the prohibition on issuing a sole-source award . . . only requires that an [a]gency compete a specific requirement they publicly evidenced an intent to place into competition," and that "new requirements should not be barred from being issued as a sole source award." *Id.* at 3.

In reviewing the requirement at issue, the SBA states that it applied the definition of a new requirement under 13 C.F.R. section 124.504(c)(1)(ii), which provides, in relevant part, as follows:

> (C) The expansion or modification of an existing requirement may be considered a new requirement where the magnitude of change is significant enough to cause a price adjustment of at least 25 percent (adjusted for inflation) or to require significant additional or different types of capabilities or work.

13 C.F.R. § 124.504(c)(1)(ii)(C); SBA Comments at 4.

The SBA notes that, according to DHA's sole-source offer letter, the June 2024 RFI and the J&A for the bridge contract contemplated a follow-on competition for the award of a 5-year IDIQ contract with a total estimated value of $100 million. SBA Comments at 4; *see* Early Document Production, Exh. 2, Offer Letter to SBA at 1. Noting that the sole-source award to Chenega was for a total estimated value of $19,838,707 with a performance period of 2.5 years (with $7,871,632 for the 1-year base period), the SBA concludes that the value of the 1-year base period of the contemplated follow-on procurement "would have significantly exceeded the value of the base period for the protested sole source award."[3] SBA Comments at 4-5. Based on this conclusion, the SBA opines that the protested sole-source award should be considered a new requirement, relative to the competitive procurement contemplated in the RFIs and the bridge contract J&A, under the definition in 13 C.F.R. section 124.504(c)(1)(ii)(C). *Id.* at 5.

[3] While the record does not include the estimated value for the base period of the contemplated follow-on contract, based on the estimated value of $100 million for the 5-year IDIQ contract, the SBA concludes that the base period value of that contract would be significantly more than $7,871,632.

Where parties disagree as to the interpretation of a regulation, our analysis begins with the language of the disputed provision. *TLS Joint Venture, LLC*, B-422275, Apr. 1, 2024, 2024 CPD ¶ 74 at 3. If the regulation has a plain and unambiguous meaning, the inquiry ends with that plain meaning. *Coast to Coast Computer Products, Inc.*, B-419624.2, June 28, 2021, 2021 CPD ¶ 237 at 10. Further, it is a fundamental canon of interpretation that words contained with a regulation, unless otherwise defined, will be interpreted consistent with their ordinary, contemporary, common meaning. *See ESCO Marine, Inc.*, B-401438, Sept. 4, 2009, 2009 CPD ¶ 234 at 5.

Here, we find that the applicable SBA regulations are plain and unambiguous, and thus we have no basis to conclude that DHA failed to properly follow the applicable regulations. As noted, the plain language of 13 C.F.R. section 124.506(b)(3) permits the award of a sole-source contract to an ANC, provided that the agency had not publicly evidenced its intent to fulfill the same requirement as a competitive 8(a) procurement. Thus, the central question at issue is whether the requirement awarded to Chenega on a sole-source basis is the same requirement that DHA indicated--in the RFIs and J&A--was intended for an 8(a) competition.[4] In this regard, the plain language of 13 C.F.R. § 124.504(c)(1)(ii)(C) unambiguously provides that the "expansion or modification of an existing requirement may be considered a new requirement where the magnitude of change is significant enough to cause a price adjustment of at least 25 percent." Applying this standard, as discussed below, we conclude that the two requirements are not the same and therefore find no merit to the protesters' challenges.

As an initial matter, we note that the sole-source contract awarded to Chenega was more than 25 percent below the estimated base-year value of the requirement contemplated by the agency's earlier RFIs and J&A. While the RFIs did not provide a specific estimated value for the 1-year base period, it is clear (considering that the entire 5-year contract was estimated at $100 million) that the value greatly exceeds the $7,871,632 base year value of the sole-source award contemplated here.

On this record, we find the SBA's conclusion to be consistent with the plain language of its regulations. Specifically, the "magnitude of change" in the dollar value (of more than 25 percent) reflected in the sole-source award means that the effort reasonably constituted a new requirement as defined in 13 C.F.R. section 124.504(c)(1)(ii)(C); *see GOV Services, Inc.,* B-414374, May 11, 2017, 2017 CPD ¶ 143 at 7.

[4] We note that DHA, in responses to the protest and the SBA comments, primarily argues that its statements in the RFIs and the J&A for the bridge contract do not constitute clear public evidence of its intent to compete the requirement. Dismissal Req. at 1-2; Agency Resp. to SBA Comments at 1-3. However, we need not reach that question because, as discussed below, we agree with the SBA's conclusion that the follow-on requirements contemplated in the RFIs and the J&A are not the same requirements as those awarded to the ANC on a sole-source basis.

The protesters raise several objections to the SBA's position. The protesters first argue that nothing in the record supports the offer letter's statement that the follow-on IDIQ contract was intended to be for $100 million. The protesters note that the value of the 1-year bridge contract awarded to ABSS was $10,935,907, not $20 million. While conceding that the difference between the annual value of the bridge contract ($10,935,907) and the sole-source award ($7,871,632) is "slightly more than a 25 [percent]," the protesters nevertheless argue that this difference is not enough for the sole-source award to constitute a "new requirement." Protesters' Resp. to SBA Comments at 4.

We find that the record supports the SBA's view that the magnitude of the sole-source award is materially different from the prior effort. In this regard, we note that the agency's RFIs described the anticipated contract as an IDIQ contract with a 60-month ordering period and instructed potential respondents to provide details of vendor capabilities that "directly correspond to management of a large ($90M+) base IDIQ for research and development support services." DHA Resp. to SBA Comments, attach. 1, December RFI at 1; *see* RFI No. HT9425-25-RFI-START, Dec. 23, 2024, at https://sam.gov/workspace/contract/opp/7b79dacb19ac409f95f233a7bd7d9627/view (last visited on Nov. 17, 2025). This record supports the agency's statement in the offer letter that the requirement intended for 8(a) competition at the time of the RFIs and the J&A was valued at $100 million for 60 months.

Moreover, even if we were to accept the protesters' position that we should examine the value of the sole-source award in comparison to the value of the bridge contract, the protesters readily acknowledge that the sole-source contract's value is still more than 25 percent less than the value of the bridge contract. *See* Protesters' Resp. to SBA Comments at 4. As noted above, the applicable regulation provides that the "expansion or modification of an existing requirement may be considered a new requirement where the magnitude of change is significant enough to cause a price adjustment of *at least 25 percent*." 13 C.F.R. § 124.504(c)(1)(ii)(C) (emphasis added). In light of this unambiguous language, we find that the sole-source award would qualify as a new requirement under the applicable regulations even as compared to the bridge contract.

We also find without merit the protesters' argument that a changed requirement should be considered a "new requirement" only where there is an *increase* in magnitude, not a decrease. *See* Protesters' Resp. to SBA Comments at 4. Calling on "common sense," the protesters assert that an agency may remove a contract from the 8(a) program "to increase the pool of potential offerors for a more complicated contract," but that there is "no corollary [for] a smaller contract." *Id.*

The plain language of the regulation, however, contradicts the protesters' positions. While the protesters focus on the word "expansion" in the regulation and cite several instances in the notice of rulemaking that reference an increase in value, they ignore that the implemented regulation refers to an "expansion *or modification*" that is defined as a "magnitude of *change*" significant enough to cause a "price *adjustment*." Protesters' Resp. to SBA Comments at 4 (*citing* 85 Fed. Reg. 66188 at § 124.3); *see*

13 C.F.R. § 124.504(c)(1)(ii)(C) (emphasis added). Had the regulators intended this to apply only to instances of an increase in value, the regulatory provision could have just as easily used the term "increase"--with the regulation then referring to a change in the "magnitude of *increase*" or a "price *increase*."

Instead, the implemented language uses the terms "change" and "adjustment," which are reasonably viewed as encompassing both an increase and a decrease in the "magnitude of change" that would qualify as a new requirement. 13 C.F.R. § 124.504(c)(1)(ii)(C). Our Office has consistently found reasonable this interpretation of the regulation as applied where the change in the requirement caused either an increase or a decrease in value. *See e.g., GOV Services*, *Inc.*, *supra* at 8-10 (finding that a challenged sole-source award to an ANC entity was a new requirement because its value was more than 25 percent less than the estimated value of the requirement offered to the SBA for 8(a) competition); *HRCI-MPSC PASS, LLC,* B-408919, B-408919.2, Jan. 8, 2014, 2014 CPD ¶ 25 at 4-5 (applying an analysis of 13 C.F.R. section 124.504(c)(1)(ii)(C) to find that the challenged award was for a new requirement where the value of the sole-source short-term contract under 13 C.F.R. section 124.506(b) amounted to less than 20 percent of that of the previously competed 8(a) procurement).

Here, the modified requirement, awarded on a sole-source basis to an ANC, reflected a magnitude of change that caused a price adjustment of more than 25 percent. We therefore agree with the SBA's interpretation of its regulations and find reasonable the SBA's conclusion that the sole-source contract to Chenega was a new requirement. Because the sole-source award was a "new" requirement *vis-à-vis* the requirement that the agency may have intended for a competitive 8(a) award in prior RFIs and in the J&A, we find that the agency did not remove the same requirement from competition in awarding the new requirement to an ANC-owned concern on a sole-source basis. *See* 13 C.F.R. § 124.506(b)(3). Accordingly, we find that the sole-source award to Chenega did not violate SBA regulations and thus find no basis to sustain the protests.

The protests are denied.

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