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# Decision

**Matter of:** Coulson Aviation USA, Inc.

**File:** B-423952; B-423952.3

**Date:** February 4, 2026

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John G. Horan, Esq., Faegre Drinker Biddle & Reath LLP, for Perimeter Solutions LP, the intervenor.

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Michelle Litteken, Esq., and April Y. Shields, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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## DIGEST

Protest is dismissed where the protester is not an interested party to challenge the agency's award of a contract on a sole-source basis because the firm cannot offer a qualified product.

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## DECISION

Coulson Aviation USA, Inc., of Thermal, California, protests the award of contract No. 1202SC26T2500 on a sole-source basis to Perimeter Solutions LP, of St. Louis, Missouri, by the U.S. Department of Agriculture (USDA), Forest Service, for aerial long-term fire retardant (LTFR) products and ancillary services to designated airtanker bases (ATBs). Coulson challenges the agency's justification for the sole-source award, the scope of the award, and various aspects of the resultant contract.

We dismiss the protest.

## BACKGROUND

The Forest Service's retardant program provides aerially applied and limited ground-based qualified long-term fire retardant (LTFR) products and application systems to assist in reducing wildfire intensity and spread. Contracting Officer's Statement (COS)

at 1.<sup>1</sup> The agency qualifies aerial LTFR products pursuant to USDA specifications, and only fully qualified LTFR products may be used on National Forest Service System lands. *Id.* Currently, Perimeter is the only supplier with a fully qualified aerial LTFR product. *Id.* at 2.

On July 11, 2025, the Forest Service issued a notice that it intended to award a sole-source contract to Perimeter for the supply of aerial LTFR products and necessary ancillary support. Agency Report (AR), Tab 29, Notice of Intent at 2. The notice provided that the aerial LTFR products supplied must be fully qualified. *Id.* at 3. The notice cited as authority for the sole-source award 41 U.S.C. § 3304(a)(1), as implemented by Federal Acquisition Regulation (FAR) section 6.302-1 (“Only one responsible source and no other supplies or services will satisfy agency requirements”). *Id.* The notice did not provide any information regarding the estimated value of the contract or the period of performance. The notice invited responses within 7 days from sources meeting the agency’s requirement--including having a fully qualified aerial LTFR product. *Id.* at 3-4. The agency did not receive any responses to the July 11 notice of intent. COS at 4.

Subsequently, on September 16, the Forest Service posted a notice of award and accompanying justification and approval (J&A) for a contract awarded on September 3. AR, Tab 36, Notice of Award at 2. The J&A provided that the agency was awarding Perimeter an indefinite-delivery, indefinite-quantity contract for the supply of fully qualified aerial LTFR products and necessary ancillary services. AR, Tab 28, J&A at 1. The J&A described the ancillary services as follows: “Ancillary services include the shipping, storing, mixing, loading, off-loading of the aerial LTFR products, and loading of water onto fixed wing aircraft, as necessary to mee[t] the Government’s requirement for supply of the aerial LTFR products, at the various ATBs.” *Id.* The contract would support three types of ATBs--type A (full-service), type B (bulk), and type C (call when needed)--and the J&A explained that at a type A ATB, “the Contractor provides the necessary equipment and labor supplemented by limited Government furnished equipment to meet the requirement.” *Id.* at 1-2. The J&A stated that the contract would have a 5-year period of performance, and the total estimated value was \$1.3 billion. *Id.*

The J&A noted that Perimeter was the only supplier to attain full qualification of an aerial LTFR product, and three other firms had a product in testing. AR, Tab 28, J&A at 2-3. Coulson was not identified as one of the firms with a product in testing. The J&A provided that “a new supplier may attain full qualification” during the period of performance, and the “acquisition has the ability to off-ramp a limited quantity of the requirement” to an alternate source.<sup>2</sup> *Id.* at 2.

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<sup>1</sup> The page numbers referenced in this decision are the Adobe PDF page numbers in the documents submitted.

<sup>2</sup> Although the J&A indicated that testing was ongoing, and additional sources may be qualified during the period of performance, in defending the protest, the agency states  
(continued...)

On September 24, Coulson filed this protest.

## DISCUSSION

Coulson asserts multiple arguments challenging the agency's justification for the sole-source award to Perimeter, the scope of the award, and the propriety of the resulting contract. As pertinent here, the protester contends that the award exceeds the agency's minimum needs in terms of the period of performance, scope, and contract requirements. Protest at 4. Additionally, after receiving the agency report, Coulson raised a supplemental protest ground, asserting that including ancillary services in the award exceeded the agency's needs and was contrary to law. Supp. Protest & Comments at 7-9.

The Forest Service disputes the merits of Coulson's allegations, and the agency also contends that Coulson is not an interested party to raise its challenges because it cannot offer a qualified aerial LTFR product.<sup>3</sup> Req. for Dismissal at 4-5; Memorandum of Law (MOL) at 10. Coulson presents three theories for why it is an interested party to pursue its protest allegations. First, Coulson asserts that it qualifies as an interested party "because it reasonably expected to be a viable competitor" for at least some portion of the period of performance. Resp. to Req. for Dismissal at 5; see *also* Protest at 2. Additionally, the protester responds that, regardless of whether it can provide the product at this time, it is an interested party to challenge the length, volume, and magnitude of the sole-source award. Resp. to Req. for Dismissal at 5. Finally, Coulson claims that it is an interested party because it "has a substantial chance for award of the protested services portion." Supp. Protest & Comments at 27. We address the protester's arguments in turn.

The Competition in Contracting Act (CICA) requires agencies to obtain full and open competition in their procurements through the use of competitive procedures. 41 U.S.C. § 3301(a)(1). However, CICA permits an exception to the use of competitive procedures where the supplies or services required by an agency are available from only one responsible source, and no other type of supplies or services will satisfy agency requirements. See 41 U.S.C. § 3304(a)(1); FAR 6.302-1(a)(2). Our review of

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that testing has been paused pending the revision of the LTFR specification to address "testing, qualification and safety shortcomings." COS at 2.

<sup>3</sup> The Forest Service also argues that we should dismiss the protest as untimely because Coulson had notice of the agency's intent to award the contract when the notice of intent was posted on July 11, and it did not file this protest until September 24. Req. for Dismissal at 2-4; MOL at 9-10. We disagree. The notice did not provide any information regarding the period of performance or the value of the contract--the basis for Coulson's initial protest allegations. See AR, Tab 29, Notice of Intent. That information was not disclosed until the agency posted the J&A on September 16, and Coulson filed the protest within 10 days, on September 24. As such, we decline to grant the agency's request to dismiss the protest as untimely. 4 C.F.R. § 21.2(a)(2).

an agency's decision to conduct a sole-source procurement focuses on the adequacy of the rationale and conclusions set forth in the written justification. *CWIS, LLC*, B-416530, Sept. 14, 2018, 2018 CPD ¶ 321 at 4. When that document sets forth a reasonable justification for the agency's actions, we will not object to the award. *Id.*; see also *MCG Energy Sols., LLC*, B-421143, Jan. 10, 2023, 2023 CPD ¶ 19 at 4.

Additionally, only an "interested party" may file a protest. 4 C.F.R. § 21.0(a)(1). That is, a protester must be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award or the failure to award a contract. *Id.* A protester does not qualify as an interested party if the protester is not eligible to receive a contract award were its protest to be sustained. *Meridian Knowledge Sols., LLC*, B-420906, Nov. 2, 2022, 2022 CPD ¶ 270 at 10. Furthermore, we determine whether a party is interested based on the current record. *Perimeter Sols. LP*, B-423321, B-423321.2, May 6, 2025, 2025 CPD ¶ 109 at 5 n.2; *Merlin Int'l, Inc.*, B-310611, Jan. 2, 2008, 2008 CPD ¶ 66 at 3. In this regard, we note an agency need not forgo meeting current needs solely based on the prospect of enhanced future competition where it has an undisputed need involving a matter of public safety. *Smiths Detection, Inc.*, B-420110, B-420111, Nov. 5, 2021, 2021 CPD ¶ 359 at 7.

On this record, we find that Coulson is not an interested party. As noted above, this procurement is for the Forest Service's retardant program for certain qualified LTFR products and application systems to assist in reducing wildfire intensity and spread. COS at 1; see also AR, Tab 28, J&A. As the agency points out, Coulson "concedes that Perimeter is the only [qualified product list]-listed LTFR supplier capable of meeting the government's operational, safety, and continuity needs." MOL at 7. While the protester contends that it will soon begin testing its product and could have a qualified product during the contract's 5-year period of performance, the fact remains that Coulson cannot offer a qualified product at this time, and it remains unclear when it will be able to do so. In this regard, the Forest Service states that testing is paused pending the implementation of a revised aerial LTFR specification, the agency does not anticipate that the revised specification will be in place until 2027 at the earliest, and full qualification of an additional source "would likely be the end of 2028, or in 2029, as a best-case scenario." Supp. COS at 6. Thus, contrary to the protester's assertions, Coulson is not on the brink of qualification. As a result, even if we were to conclude that the Forest Service's written justification was unreasonable, or the resultant contract is otherwise deficient, Coulson would not be eligible to compete for an award because it cannot offer a qualified aerial LTFR product. By definition, the protester is not an interested party to challenge the award. See *Perimeter Sols.*, *supra*.

We next address the protester's contention that, regardless of whether it can offer a qualified product at this time, it is an interested party to challenge the "excessive length, volume, and magnitude of the protested sole source." Supp. Protest & Comments at 25 (citing *Pacific Sky, Inc.*, B-228049, Nov. 23, 1987, 87-2 CPD ¶ 504). We find Coulson's reliance on our decision in *Pacific Sky* unavailing. In *Pacific Sky*, the protester challenged a 5-year sole-source contract for a wide array of aircraft engine parts. The agency's justification for using other than competitive procedures was that there was

only one approved source for all of the parts. In sustaining the protest, we noted that in defending the protest, the agency conceded that there may be approved sources for some of the 294 items included in the award, and we found that was inconsistent with the agency's justification for the sole-source award. *Id.* at 6. Thus, *Pacific Sky* is distinguishable in that, while the decision did not directly address the protester's interested party status, the circumstances were clear that the agency acknowledged the existence of other sources, the protester there could have offered a qualified product, and it was therefore eligible for award. Here, Coulson cannot offer a qualified product, and it will be unable to do so for the foreseeable future, and it therefore cannot be an interested party.<sup>4</sup> *Perimeter Sols. LP, supra; Merlin Int'l, supra.*

Finally, as noted above, the protester also argues it is an interested party because it would have a substantial chance of performing the services portion of the contract, which Coulson contends should have been procured separately and on a competitive basis. Supp. Protest & Comments at 12-14, 27. We need not consider whether the protester is an interested party to pursue this allegation because the allegation challenging the inclusion of ancillary services in the award was not timely raised.

Our regulations provide that a protest must be filed not later than 10 days after the protester knows or should have known the basis for its protest, whichever is earlier. 4 C.F.R. § 21.2(a)(2). Further, where a protester timely files a broad initial allegation and later supplements that broad allegation with allegations that amount to specific examples of the initial, general challenge, and these examples involve different factual circumstances that require a separate explanation or defense from the agency, these specific examples must independently satisfy our timeliness requirements. This is because our regulations do not contemplate the piecemeal presentation of protest arguments. *Savannah River Tech. & Remediation, LLC; Fluor Westinghouse Liquid Waste Servs., LLC*, B-415637 *et al.*, Feb. 8, 2018, 2018 CPD ¶ 70 at 6.

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<sup>4</sup> Additionally, with respect to Coulson's allegations regarding the length, volume, and magnitude of Perimeter's contract, we have explained that in a situation where competition does not exist but will exist in the near future, CICA requires agencies to purchase, in the noncompetitive environment, only what is necessary to satisfy needs that cannot await the anticipated competitive environment. See, e.g., *Smiths Detection, supra* at 7; *Ricoh Corp.*, B-234655, July 5, 1989, 89-2 CPD ¶ 3 (sustaining protest where agency issued a *de facto* sole-source award for 4 years of requirements where at least four firms were currently developing compliant products and anticipated being able to offer the products in less than 10 months). In such circumstances, we have reached the merits of protests brought by firms that were not yet eligible for award but would likely be eligible for award in the near future. See, e.g., *Ricoh Corp., supra*. The circumstances presented here, however, are distinguishable as there is no indication that competition will exist in the near future given the pause in LTFR qualification testing. See COS at 2; Supp. COS at 6. Accordingly, we need not address the protester's allegations concerning whether the contract exceeds the agency's minimum needs, as Coulson's prospect of future competition is too remote to establish interest within the meaning of our Bid Protest Regulations. 4 C.F.R. § 21.0(a)(1).

Here, in its initial protest, Coulson broadly challenged the scope of the award, focusing on the value and period of performance of the sole-source award, but the protester did not raise any allegations concerning the inclusion of ancillary services.<sup>5</sup> Instead, Coulson did not challenge the inclusion of ancillary services until it filed a supplemental protest on December 18 with its comments to the agency report and complained about the inclusion of “a wide array of operational and support services,” such as equipment ownership, equipment maintenance, quality assurance sampling, and loading performance operations. Supp. Protest & Comments at 7-9. Coulson contends that the supplemental protest ground is timely because prior to gaining access to Perimeter’s contract, which was provided with the agency report, the protester “reasonabl[y] understood any referenced ‘ancillary services’ to be of the type that **only** the [qualified] provider, and no other contractors, could complete.” *Id.* at 8.

We are not persuaded by the protester’s arguments, and we find Coulson knew or should have known of the bases for its allegations when it reviewed the September 16 J&A. The J&A stated that the contract included the following ancillary services: shipping, storing, mixing, loading, and off-loading aerial LTFR products, as well as loading of water onto fixed wing aircraft. AR, Tab 28, J&A at 1. The J&A also provided that Perimeter would support type A, full-service ATBs, where Perimeter would “provide[] the necessary equipment and labor supplemented by limited Government furnished equipment to meet the requirement.” *Id.* at 1-2. In this regard, we agree with the agency that, at the time of the J&A, “Coulson was fully aware of the nature of the ancillary services that were included in the sole source contract.” Supp. MOL at 9.

The protester strains credulity in asserting it reasonably understood that the ancillary services described in the J&A were limited to those only a firm with a qualified aerial LTFR product could provide. For example, the protester has not explained why it could not have raised, with its initial broad challenges to the scope of the award, the inclusion of an array of unspecialized activities such as loading water onto fixed wing aircraft as described in the J&A. See AR, Tab 28, J&A at 1. Moreover, the protester’s narrow conception of ancillary services is inconsistent with the fact that the J&A stated that Perimeter would provide equipment and labor--supplemented by “limited” agency furnished equipment--at type A, full-service ATBs. *Id.* at 2. In other words, Coulson knew or should have known that the contract included services beyond those that only Perimeter could provide when it reviewed the J&A and raising this allegation for the first time in its comments to the agency report constitutes a piecemeal presentation of protest allegations.

We find the protester has not established that the supplemental protest ground regarding the inclusion of ancillary services was filed within 10 days of when Coulson knew or should have known its protest grounds, and the supplemental protest ground is

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<sup>5</sup> Indeed, the only references to “ancillary services” in Coulson’s protest are in the context of describing the contract. Protest at 1, 3.

dismissed as untimely. 4 C.F.R. § 21.2(a)(2). Because this protest ground is untimely, we need not reach the question of whether Coulson is an interested party to raise it.

In sum, Coulson is not an interested party because, even if we were to sustain its protest, the firm is not currently capable of supplying a fully qualified aerial LTFR product to meet the agency's needs as required in this procurement.

The protest is dismissed.

Edda Emmanuelli Perez  
General Counsel