



DOCUMENT FOR PUBLIC RELEASE

The decision issued on the date below was subject to a GAO Protective Order. This version has been approved for public release.

Decision

Matter of: DLH, LLC

File: B-424528; B-424528.2; B-424528.3

Date: August 31, 2026

Holly A. Roth, Esq., Terry L. Elling, Esq, Tanner N. Slaughter, Esq. and Ben R. Smith, Esq., Holland & Knight LLP, for the protester.

William M. Jack, Esq., and David T. Hickey, Esq., Dickinson Wright, PLLC, for Dynanet Corporation, the intervenor.

Brandon Dell’Aglio, Esq., and Karyne C. Akhtar, Esq., Department of Health and Human Services, for the agency.

Christopher Alwood, Esq., and Alexander O. Levine, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest of a sole-source bridge task order for critical information technology services, placed against a federal supply schedule contract, is denied where the need for the services was of such unusual urgency that following the federal supply schedule’s competitive ordering procedures would result in unacceptable delay.

DECISION

DLH, LLC, of Bethesda, Maryland, protests the Department of Health and Human Services (HHS), National Institutes of Health’s (NIH) issuance of a 3-month task order on a sole-source basis to Dynanet Corporation, of Elkridge, Maryland, for information technology (IT) and information security services in support of NIH’s Office of Innovation and Information Technology (OIIT). DLH contends that the sole-source task order lacks a legal basis and arises due to a lack of advanced planning by the agency.

We deny the protest.

BACKGROUND

NIH’s OIIT is responsible for providing IT support for more than 3000 employees in NIH’s Office of Research Services (ORS) and Office of Research Facilities (ORF).

Agency Report (AR), Tab 1.12, Request for Quotations (RFQ) No. C-120673-SB, Statement of Work (SOW) at 1.¹ This support includes project management, application development and operations, application hosting services, desktop support, customer care, network account administration, internet and intranet services, network resource management, web development, and IT security. *Id.* As relevant here, OIIT provides network application hosting, desktop support, and information security for two IT environments, NIH's Enterprise Network and its Facilities Network (FACNet). *Id.* at 2. Support for NIH's FACNet includes network and IT security engineering for ORS and ORF's industrial control systems. *Id.*

For more than a year, NIH has been attempting to issue a task order, on a competitive basis, for IT services to assist OIIT in meeting its mission requirements to provide IT support to ORS and ORF. Specifically, in May 2025, NIH issued RFQ No. C-120673-SB to firms holding contracts under the NIH Information Technology Acquisition and Assessment Center (NITAAC) Chief Information Officer-Solutions and Partners 3 small business (CIO-SP3 SB) governmentwide acquisition contract (GWAC). Contracting Officer's Statement (COS) at 1. The RFQ contemplated the issuance of a task order to provide application development, network services, end-user support, and project management services for a 1-year base period and two 1-year option periods. AR, Tab 1.12, RFQ No. C-120673-SB, SOW at 1, 3. On July 3, 2025, the agency issued a task order to Dynanet. COS at 1. DLH and another disappointed vendor protested the issuance of the task order and the agency promptly notified our Office that it intended to take corrective action by reevaluating quotations and making a new source selection decision. *Imagine IT, Inc.*, B-423719, Aug. 8, 2025 (unpublished decision); *DLH, LLC*, B-423719.2, B-423719.3, Aug. 8, 2025 (unpublished decision). Our Office dismissed the protests as academic. *Id.*

The agency reevaluated quotations and, on May 4, 2026, again issued a task order to Dynanet. COS at 1. DLH and the other disappointed vendor again protested the issuance of the task order. *Imagine IT, Inc.*, B-423719.4, June 4, 2026 (unpublished decision); *DLH, LLC*, B-423719.5, June 4, 2026 (unpublished decision). In response to these protests, the agency notified our Office that it intended to take corrective action by cancelling the solicitation, reconsidering NIH's requirements, and conducting a new competitive procurement to meet the requirement. Req. for Dismissal, B-423719.5, May 29, 2026.

DLH served as the incumbent contractor providing these IT services in support of ORS and ORF. AR, Tab 1.5, DLH Incumbent Contract; see *also* Protest at 2; Memorandum of Law (MOL) at 2. DLH's incumbent task order supporting the instant requirement expired on May 18. AR, Tab 1.5, DLH incumbent Task Order at 2. On May 19, NIH executed a sole-source justification (SSJ) to issue a noncompetitive, federal supply

¹ Some documents in the agency report do not contain a uniform set of page numbers. For clarity, unless otherwise noted, all citations to the record are to the consecutive numbering of the pages in the Adobe PDF documents provided by the agency.

schedule (FSS) task order for a 3-month base period and three 1-month option periods. AR, Tab 1.1, SSJ at 1.

The SSJ cited General Services Acquisition Regulation (GSAR) 538.7104-3(b)(1)(i) as authority to issue an FSS sole-source order, explaining that the “need is of such unusual urgency that following the procedures would result in unacceptable delays in fulfilling that need.”² *Id.* at 2. On May 19, the same day the SSJ was executed, NIH issued the sole-source task order at issue here to Dynanet. AR, Tab 1.4, Sole-Source Task Order. The \$3.6 million task order covers a 3-month base period with three 1-month option periods. *Id.* at 2; AR, Tab 1.11, Performance Work Statement at 2. On May 26, DLH filed the instant protest challenging the sole-source task order. See Protest. On June 4, DLH filed a supplemental protest after it had reviewed the agency’s SSJ. See Supp. Protest.

DISCUSSION

The protester raises various challenges to the issuance of the short-term, sole-source task order to Dynanet. While our decision does not address every argument, we have reviewed all the arguments and, as explained below, find no merit to DLH’s objections to the short-term, sole-source contract.

Interested Party

As an initial matter, NIH and the intervenor argue that DLH is not an interested party to challenge the agency’s decision to issue the task order on a sole-source basis. Based on the record and facts before us, we find that DLH is an interested party to challenge the order.

Under the bid protest provisions of the Competition in Contracting Act of 1984 (CICA), only an interested party may protest a federal procurement. That is, a protester must be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. 4 C.F.R. § 21.0(a)(1). A protester is not an interested party where it would not be eligible to receive a contract award were its protest to be sustained. See *C3.ai*, B-421337, B-421337.2, Feb. 16, 2023, at 4. Determining whether a party is interested involves the consideration of a variety of factors, including the nature of the issues raised, the benefit of the relief sought by the protester, and the party’s status in relation to the

² HHS adopted the updated version of Federal Acquisition Regulation (FAR) part 8, issued as part of the Revolutionary Far Overhaul (RFO), through a class deviation. HHS FAR Class Deviation 2025-09, amend. 1. For clarity in this decision, citations to each set of regulations will use the abbreviations “FAR” and “RFO” as appropriate. Under the RFO, when placing an FSS order, agencies are required to follow the procedures set forth in GSAR subpart 538.71. RFO 8.401(b). Similar procedures had previously been set forth in FAR subpart 8.4.

procurement. *RELM Wireless Corp.*, B-405358, Oct. 7, 2011, at 2. Whether a protester is an interested party is determined by the nature of the issues raised and the direct or indirect benefit or relief sought. *Id.*

The agency argues that DLH is not eligible to receive the task order because the order was issued as a small business set-aside under FSS special item number (SIN) 54151, and DLH is not a small business that holds an FSS contract with that SIN. Agency Req. for Dismissal, June 2, 2026; Agency Resp. to Intervenor's Req. for Dismissal at 1-2. However, the agency did not explain why, if this protest were to be sustained, it would be required to procure a replacement bridge task order from a small business under FSS SIN 54151.³ Further, the agency did not demonstrate that it would be prohibited from issuing a task order to DLH to meet this requirement under the procurement vehicle the agency used in the prior competitive solicitation for this requirement, the CIO-SP3 SB GWAC.⁴ In short, we see no basis to conclude that the agency could not reprocur the requirement using a different acquisition strategy, and if the agency did so, that DLH would necessarily be ineligible to receive the task order.⁵

³ The agency does not explain how this non-competitive acquisition qualifies as a small business set-aside rather than simply a sole-source order to a firm that happens to be a small business concern. The agency also did not specifically represent that, if the protest were sustained, it would seek to procure a task order set aside for that SIN.

⁴ NIH's CIO-SP3 SB website states that the ordering period for the GWAC runs through October 29, 2026, with an ordering period of performance through October 2031. *CIO-SP3 SB IT Services/Solutions*, NITAAC, <https://www.nitaac.nih.gov/gwacs/cio-sp3-small-business> (last accessed August 19, 2026).

⁵ In support of its arguments, the agency cites several of our decisions for the principle that a protester is not an interested party to challenge an FSS procurement if it does not hold an FSS contract with the required SIN. See, e.g., Agency Resp. to Intervenor's Req. for Dismissal at 2 (*citing Manhattan Telecommunications Corp., LLC*, B-423414, B-423414.2, June 30, 2025; *BAO Systems, LLC*, B-421561.13 *et al.*, Apr. 10, 2024). However, the facts of those protests are distinguishable from the facts here. Specifically, in both *Manhattan Telecommunications* and *BAO Systems*, the agency conducted a competition to establish a blanket purchasing agreement under an FSS, instead of, as here, where the agency conducted a sole-source procurement. In both cases, we found that the protester was not an interested party to challenge the agency's source selection decision because it was not eligible for award under the terms of the relevant competitive solicitation. *Manhattan Telecommunications*, *supra* at 5-6; *BAO Systems*, *supra*, at 11. Accordingly, in each of these cases, there were other eligible vendors that had participated in the competition such that, were the protests sustained, the protesters would still not be next in line for award. Here, the protest does not challenge a competitive procurement and there is no next-in-line vendor in place. Rather, DLH's protest challenges the agency's decision to conduct a sole-source procurement, meaning that a successful protest would necessarily result in the agency having to use another acquisition strategy to fulfill the requirement. We further note that
(continued...)

The intervenor also argues that DLH is not an interested party because it does not have qualified staff available with the necessary personal identity verification (PIV) credentials to perform the required services without interruption. Intervenor's Req. for Dismissal at 2-5. The intervenor bases this argument, in part, on NIH's SSJ, which stated that Dynanet was "uniquely positioned" to perform the bridge contract because it "has technically qualified staff available immediately with the necessary [PIV] credentials" to access NIH facilities and IT systems. *Id.* at 3 (*quoting* AR, Tab 1.1, SSJ at 2). Dynanet contends that "NIH's rationale that only Dynanet could meet these specific [bridge contract] requirements" in the necessary timeframe meant that DLH is not a prospective offeror eligible to compete for the bridge task order. *Id.*

In response to the request for dismissal, DLH argues that it can meet the requirements of the bridge task order separate from its expired incumbent task order. Protester's Resp. to Intervenor's Req. for Dismissal at 6. In this regard, DLH asserts that its employees--through their work on a separate NIH task order--performed critical portions of the bridge task order requirements on May 19 and 20 after DLH's incumbent contract had expired but before Dynanet began performance on the sole-source task order. Protester's Resp. to Intervenor's Req. for Dismissal at 6. The protester explains that it is currently performing an IT task order for NIH's Office of the Director through which it has qualified IT personnel with access to PIV credentials and NIH systems. *Id.*; Protest, Exh. 4a, DLH Task Order.

Without more, we fail to see how the bridge task order requirements are so restrictive that it would be impossible for DLH--which had been performing the services at issue before the bridge task order was issued--to meet them. Based on the protester's representations regarding its other NIH IT contract, we find that the intervenor has failed to demonstrate that DLH is incapable of providing qualified staff that can obtain PIV credentials to access NIH IT systems and facilities. Further, we note that the SSJ did not rely on the sole-source authority that only one source was capable of performing the requirement. In this regard, while the agency stated Dynanet was "uniquely positioned to provide urgent support[.]" we read this within the context of the SSJ as indicating that Dynanet was best suited to meet the unusually urgent requirement. AR, Tab 1.1, SSJ at 2. Had this statement been intended as a finding that other vendors could not perform the sole-source task order's services, the agency presumably would have said so and potentially cited the only one responsible source justification for the use of noncompetitive procedures.

On this record, we find that neither the agency nor the intervenor has demonstrated that, if the protest were sustained, DLH would not be eligible to receive a bridge task

(...continued)

in *BAO Systems*, the protest grounds alleging that the agency had unreasonably limited competition were resolved on the merits and not dismissed based on the protester's interested party status. *BAO Systems, supra*, at 8.

order for the requirement at issue. Accordingly, we conclude that the protester is an interested party to protest the sole-source task order to Dynanet.

Timeliness

In its comments and second supplemental protest, the protester argues, for the first time, that the agency improperly permitted Dynanet access to DLH employees so as to later justify the sole-source task order to Dynanet. Comments & Second Supp. Protest at 11-16. In this regard, DLH contends that the agency permitted Dynanet to begin performance immediately upon the issuance of the May 4 competitive task order, thereby giving Dynanet access to nonpublic, competitively useful incumbent workforce and performance information. *Id.* at 12. DLH asserts that the agency failed to consider whether such access constituted an impermissible organizational conflict of interest. *Id.* at 15; Protester's Resp. to Agency's July 7 Req. for Dismissal at 5.

Under our Bid Protest Regulations, protests based on other than solicitation improprieties must be filed within 10 days of when the protester knew or should have known their basis. 4 C.F.R. § 21.2(a)(2). Further, our regulations do not contemplate the piecemeal presentation or development of protest issues; where a protester raises a broad ground of protest in its initial submission but fails to provide details within its knowledge until later, so that a further response from the agency would be needed to adequately review the matter, these later issues will not be considered. *22nd Century Techs., Inc.*, B-413210, B-413210.2, Sept. 2, 2016, at 9.

Here, DLH likely was aware of Dynanet's allegedly improper transition and onboarding of employees no later than May 11, 2026, when DLH sent an email to the agency expressing concerns regarding Dynanet's attempted employee transitions prior to the expiration of DLH's incumbent task order.⁶ AR, Tab 1.16, DLH Email to NIH, May 11, 2026. However, the record is clear that by May 20, the protester was certainly aware that Dynanet had transitioned DLH employees, that the agency had issued a stop work order related to the competitive task order, that Dynanet was still performing the requirement for the agency, and that "NIH personnel were less than forthcoming about the contract vehicle that permitted Dynanet's performance[.]" Protest at 3. Further, the record demonstrates that by May 26, DLH knew that the agency had issued the

⁶ The protester contends that the language of the May 11 email demonstrates DLH was not aware Dynanet was conducting these transition activities with the agency's blessing. Protester's Resp. to Agency's July 7 Req. for Dismissal at 3. Curiously, despite complaining that the agency did not file a copy of the contracting officer's reply to DLH's May 11 email as an exhibit to the agency's July 7 request for dismissal, DLH also did not include a copy of the contracting officer's reply in its response to that dismissal request. See *id.* Given our conclusion below that this protest ground is untimely regardless of what DLH knew on May 11, we need not review the agency's response to DLH's May 11 email to resolve the protest.

sole-source task order to Dynanet. *Id.*; Protest, Exh. 3, SAM.gov Posting for Sole-Source Task Order at 2.

In sum, we find that the protester had all the information it needed to raise these protest grounds no later than May 26.⁷ Accordingly, DLH was required to raise these protest grounds by June 5. Since DLH failed to raise them until it filed its second supplemental protest on July 6, we dismiss these protest grounds as untimely.

Sole-Source Task Order

DLH contends that the agency failed to meet the applicable requirements to award a sole-source task order under GSAR 538.71. Supp. Protest at 9-13; Comments & Second Supp. Protest at 2-11. In this regard, the protester argues that NIH failed to satisfy its requirement to obtain competition to the maximum extent practicable before moving forward with the sole-source order to Dynanet. Comments & Second Supp. Protest at 2-5.

We will review an agency's justification for sole-source FSS orders to ensure they are reasonable and in compliance with applicable statutory and regulatory requirements. See, e.g., *Castro & Co., LLC*, B-419366, Jan. 25, 2021, at 4 (reviewing the use of a limited sources justification under FAR subpart 8.4); *XTec, Inc.*, B-405505, Nov. 8, 2011, at 3; *STG, Inc.*, B-405082, B-405082.2, July 27, 2011, at 2-3. As discussed below, we find nothing unreasonable in the agency's determination that issuance of a short-term, sole-source task order on an urgent basis was justified.

The sole-source task order at issue was placed against Dynanet's FSS contract relying on GSAR 538.7104-3. Orders and blanket purchase agreements placed under the FSS are exempt from the competitive requirements of CICA and its implementing regulations in FAR part 6. GSAR 538.7104-3; cf. *Noble Supply & Logistics*, B-417269, Apr. 30, 2019, at 8 (the issuance of BPAs and orders under FAR subpart 8.4 are generally exempt from the competition requirements of CICA and its implementing regulations). Nevertheless, the GSAR requires that an ordering activity "justify its action when awarding on a sole[-]source basis." GSAR 538.7104-3. For FSS orders that exceed the simplified acquisition threshold, sole-source justifications "must be made in writing and include sufficient detail and supporting rationale to support" the statutory exception relied upon by the agency. GSAR 538.7104-3(b)(2). The GSAR sets forth five statutory

⁷ The protester maintains that it was not aware of the full extent of the agency's involvement in Dynanet's allegedly improper transition activities until the agency filed its report on June 24. Protester's Resp. to Agency's July 7 Req. for Dismissal at 5. However, our decisions have repeatedly concluded that a protester need not await perfect knowledge before filing a protest. See, e.g., *Valkyrie Enters., LLC*, B-414516, June 30, 2017, at 3-4 n.2. Here, as discussed above, we conclude that DLH had all the information it needed to raise the supplemental protest grounds at issue no later than May 26.

exceptions that support the placement of an FSS order on a sole-source basis, including, as relevant here, when the “need is of such unusual urgency that following the procedures would result in unacceptable delays in fulfilling that need[.]” GSAR 538.7104-3(b)(1)(i).

Here, the SSJ cited the “unusual urgency” exception as authority to issue an FSS sole-source order. AR, Tab 1.1 at 2. The SSJ recited the procurement history and explained that this “short-term award is needed to ensure continuity of critical services while [] NIH reconsiders its requirements and prepares for a new competitive solicitation to be issued.” *Id.* The SSJ explained that continuity of services is necessary because, without this specialized support, NIH will be unable to “sustain facilities, research infrastructure, and specialized cybersecurity functions” including support of biosafety containment labs and “high-consequence research sites[.]” *Id.* The SSJ also stated that any gap in services “poses a direct threat to NIH safety and operations” because the services support “mission-critical physical security, emergency response, and campus infrastructure.” *Id.* The contracting officer determined that the 3-month base period was meant to cover “the minimum period reasonably necessary to ensure that a competitive solicitation can be developed and issued[.]” while the option periods were meant to be a contingency for unanticipated delays. *Id.*

We see nothing objectionable in NIH’s issuance of a short-term, sole-source order to Dynanet in light of the agency’s findings that the services were needed immediately and that conducting a competition would take months. We find the agency’s justification to be in line with GSAR 538.7104-3(b)(1)(i), which specifically authorizes restricting competition where, as here, there is an urgent need such that following the FSS ordering procedures would result in unacceptable delays.

DLH objects to the agency’s justification, arguing that, on May 19 and 20, its employees performed the requirements at issue through “a separate, active contract vehicle at the [a]gency’s direction.”⁸ Comments & Second Supp. Protest at 4. The protester avers that, because the agency’s critical short-term needs were being met through these alternative means, there was no urgent need to issue a sole-source bridge task order to meet the requirement. *Id.* However, the protester does not contend that this separate vehicle (the other NIH task order) had been modified to include the bridge task order work, or that there was otherwise a contract or task order in place with a scope that included the services at issue. Therefore, we view DLH’s arguments here not as challenging the cited urgent basis to issue the sole-source task, but rather as arguing that the agency should have issued the bridge task order to DLH instead. Such arguments do not demonstrate that it was unreasonable or contrary to statute or regulation for the agency to issue the order to Dynanet. *See Systems Integration &*

⁸ The agency disagrees with the protester’s characterization of events, arguing that DLH was not performing the requirements at issue on May 19 and 20. MOL at 5. Given our conclusion above, we need not address this factual dispute in order to resolve the protest.

Mgmt., Inc., B-402785.2, Aug. 10, 2010, at 3 (that an agency can issue a sole-source bridge task order on an urgent basis to an incumbent protester does not render the agency's decision to issue the order to another vendor unreasonable).

We are also unpersuaded by the protester's argument that the agency was required to obtain competition to the maximum extent practicable here. As an initial matter, we note that the protester does not identify any specific requirement in the GSAR's ordering procedures that agencies obtain competition to the maximum extent practicable when using the unusual urgency basis to issue a sole-source FSS order. To the contrary, the GSAR's general requirement to open competitions above the simplified acquisition threshold to as many FSS contractors as practicable does not apply when "a justification is executed and approved in accordance with [GSAR] 538.7107-3(b)[.]" GSAR 538.7103-3(a).

The protester's only legal basis for this argument derives from two of our Office's decisions discussing the sole-source justification requirements of CICA and FAR part 6. Protest at 7-8; Comments & Supp. Protest at 5-6 (*citing WorldWide Language Resources, Inc.; SOS International Ltd.*, B-296993 *et al.*, Nov. 14, 2005; *Career Sys. Dev. Corp.*, B-411346.11 *et al.*, May 18, 2018).⁹ However, as noted above, orders and blanket purchase agreements placed under the FSS are exempt from the competitive requirements of CICA and its implementing regulations in FAR part 6.¹⁰ GSAR 538.7104-3; *cf. Noble Supply & Logistics, supra* at 8. Without more, we fail to see how this argument demonstrates that the agency's sole-source justification was unreasonable or not in compliance with the regulatory requirements of GSAR 538.7104-3

The protester also argues that NIH improperly relied on the unusual urgency basis as a result of a lack of advanced planning. Protest at 8-10; Comments & Second Supp. Protest at 6-9. CICA specifically provides that noncompetitive procedures may not be used as a result of a lack of advanced planning by contracting officials. 41 U.S.C. § 3304(e)(5)(A)(i); RFO 6.103(b)(1). While FSS orders are not subject to the specific competition requirements of CICA and FAR part 6, our Office has recognized that an

⁹ Notably, the *Career Systems* decision cited by the protester concerns a sole-source justification based on the "only one responsible source available" exception to competition, not an unusual urgency exception. See *Career Sys. Dev. Corp., supra* at 3, 8-10. The protester does not explain how this decision is relevant to the facts presented here.

¹⁰ FAR section 6.301(d), and the corresponding RFO section 6.103(c), generally require contracting officers to "solicit offers from as many potential sources as is practicable under the circumstances" when they are not obtaining full and open competition for the government's requirements. The applicable GSAR provisions, however, do not include a similar requirement when an agency issues orders under the FSS on a noncompetitive basis.

agency similarly may not utilize non-competitive FSS procedures as a result of a lack of adequate advance planning. *Noble Supply & Logistics, supra* at 8 (*citing XTec, Inc.*, B-410778.3, Oct. 1, 2015, at 12, n.18). However, we do not consider an immediate need for services that arises as a result of an agency's implementation of corrective action in response to a protest to be the result of a lack of advanced planning. *RCG of N.C., LLC*, B-419691, June 24, 2021, at 6-7 (*citing Systems Integration & Mgmt., supra* at 3.)

As described above, the record reflects that NIH tried to issue a long-term task order competitively for the IT support services in support of OIIT. The SSJ explained that the short-term, sole-source task order is necessary to allow the agency to implement corrective action in response to the multiple protests received in response to the two previous competitive awards. AR, Tab 1.1, SSJ at 3. Given that the delays in awarding the long-term task order are due primarily to the agency's reasonable implementation of corrective action, we do not consider the sole-source task order at issue here to be the result of a lack of advanced planning.

The protest is denied.

Edda Emmanuelli Perez
General Counsel