U.S. GOVERNMENT ACCOUNTABILITY OFFICE
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Comptroller General
of the United States

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Decision

Matter of: MEPT/FCP Patriots Plaza, LLC

File: B-424581; B-424581.2

Date: September 15, 2026

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Seamus Curley, Esq., and Joshua Fix, Esq., Dentons US LLP, for LCPC Lafayette Property LLC, the intervenor.
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Samantha S. Lee, Esq., and Peter H. Tran, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest challenging the agency's intent to negotiate and award a sole-source lease is denied where the agency has a reasonable basis for the contemplated action.

DECISION

MEPT/FCP Patriots Plaza, LLC (Patriots Plaza), of Bethesda, Maryland, protests the Commodity Futures Trading Commission's (CFTC) statement of intent to negotiate and award a lease on a sole-source basis to Beacon Capital Partners dba LCPC Lafayette Property LLC (Beacon Capital), of Washington, D.C., for the CFTC's headquarters in Washington, D.C. The protester alleges that the CFTC's decision to issue a sole-source lease is unreasonable and exceeds the agency's statutory authority.

We deny the protest.

BACKGROUND

The mission of the CFTC "is to promote the integrity, resilience, and vibrancy of the U.S. derivatives markets through sound regulation." Agency Report (AR), Exh. A, 2022 Lease Prospectus at 3.[1] Since 1994, the CFTC's headquarters has been located at

[1] Citations to the record refer to the documents' internal Adobe PDF pagination.

3 Lafayette Centre at 1155 21st Street NW, Washington, D.C. *Id.* at 2. The CFTC entered into its current lease, set to end on September 30, 2027, under its own leasing authority. Contracting Officer's Statement (COS) at 2; AR, Exh. F, Executive Director Decl. at 5.

In 2016, the CFTC entered a memorandum of understanding (MOU) with the General Services Administration (GSA) to "find, lease, and assist with space planning" for all of the CFTC's spaces. COS at 1. Under this MOU, GSA solicited and awarded a lease on April 16, 2024, for a new space for the CFTC's headquarters at Patriots Plaza III at 355 E Street SW, Washington, D.C. *Id.* The CFTC and GSA then worked to complete the design for the buildout of the headquarters space. *Id.*

On September 18, 2025, the CFTC requested that GSA pause the ongoing design work based on concerns that the CFTC's requirements for the headquarters space had changed.[2] *Id.* On January 8, 2026, the CFTC requested that GSA stop all work related to the Patriots Plaza lease. *Id.* On March 17, GSA notified Patriots Plaza that GSA was "pursuing an alternative housing strategy for the [CTFC's] long term requirement" and GSA was therefore "actively working to identify an alternate tenant to occupy the leased premises" as permitted under the lease agreement. AR, Exh. H, GSA Letter to Patriots Plaza at 1.

On June 5, the CFTC published, on SAM.gov, a notification of intent for a lease agreement for the current headquarters location. AR, Exh. J, Notification of Intent (NOI) at 2. The notification advised that the CFTC intends to negotiate and award a 5-year sole-source lease to Beacon Capital for the CFTC's existing headquarters at 3 Lafayette Centre. *Id.* at 3-4.

On June 15, Patriots Plaza filed this protest.

DISCUSSION

Patriots Plaza raises a number of challenges to the agency's decision to pursue a sole-source lease with Beacon Capital for the space at 3 Lafayette Center. The protester argues that the agency's notification, regarding its intention to sole-source, is a mere pretext to avoid continuing with the GSA Lease with Patriots Plaza, and that the sole-source lease does not reflect the agency's actual needs. Protest at 10-12. According to the protester, the CFTC's intended lease will also violate laws governing appropriations and federal office space occupancy. *Id.* at 13-17. Although our decision does not

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[2] On October 1, 2025, the CFTC suffered a lapse in appropriations which lasted until November 12, 2025. COS at 1-2. While the CTFC "ceased all ongoing design work" during the lapse in appropriations, GSA, however, did not have a lapse in appropriations and had "began preconstruction price negotiations with the lessor without review or approval from CFTC." *Id*. at 2.

specifically address every iteration of every argument, we have reviewed all the allegations and conclude none provides a basis to sustain the protest.

Pretext to Avoid the Patriots Plaza Lease

The focus of Patriots Plaza's protest is that the CFTC will no longer be the tenant agency for GSA's lease at Patriots Plaza III. Specifically, the protester alleges:

> Through its notice of intent to issue a sole source lease award, CFTC has indicated that it intends to obtain a lease for a new headquarters office in Washington, D.C. The problem with this is straightforward: CFTC already has a new lease for a new headquarters office in Washington, D.C.

Id. at 2. According to the protester, the CFTC's proffered basis for the lease at 3 Lafayette Center is a pretext, and in truth the CFTC simply wants to avoid moving to Patriots Plaza III. The CFTC responds that the protest is "a misguided tactic" to attempt to force the agency to make an agreement to return to the lease between GSA and Patriots Plaza. Memorandum of Law (MOL) at 2.

As referenced, on June 20, 2025, the CFTC published a notice of intent to award a new 5-year lease to Beacon Capital for the CFTC's existing headquarters space. The notice explained that the lease was necessary because of the "CFTC's changing requirements and a determination . . . that [Patriots Plaza III] was insufficient for the CFTC's needs."[3] AR, Exh. J, NOI at 4. According to the notice, the 5-year lease was "necessary to account for the time required to competitively award a new long-term lease and then design, build out, and move to a new headquarters location," because the CFTC's current headquarters lease "expires on September 30, 2027, which does not allow sufficient time for these steps." *Id.*

As the agency explains, the CFTC's work with GSA on the Patriots Plaza lease was based on the agency's requirements at that time. In this regard, before January 2025, "approximately 90% of the Agency's workforce was working remotely," rather than from the headquarters. AR, Exh. D, Acting General Counsel Decl. at 2. On January 20, 2025, however, executive agencies like the CFTC were directed to require employees to return to in-person work in the office, on a full-time basis. *Id.* (citing Presidential Memorandum titled "Return to In-Person Work"). In addition, the CFTC explains that "growing mission objectives, including its evolving role as a leader in the regulation of digital assets and its oversight of additional asset classes, brought with it a new need for staff with specialized expertise." MOL at 4-5. As a result, the agency asserts that it is reassessing its long-term requirements for the CFTC's headquarters, and the sole source award is for "continuity of office space that can accommodate the CFTC's

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[3] The record indicates the CFTC's existing "footprint" at 3 Lafayette Centre is 289,295 rentable square feet (RSF), while the Patriots Plaza III lease is only for 147,050 RSF. COS at 11; AR, Exh. C, Patriots Plaza III Lease at 6.

expanding mission and mandatory full-time, in-office footprint while a multi-year procurement process is undertaken." AR, Exh. D, Acting General Counsel Decl. at 4; COS at 2-3. The notification further explains:

> By maintaining its current HQ [headquarters] location, the Commission will ensure there is enough room for staff as the agency brings more talent onboard to respond to industry growth and innovation. By remaining at its current location, CFTC staff will not be disrupted from their work . . . The CFTC has independent leasing authority (reference 7 U.S.C. § 16(b)(3)) and is the lease holder for its [3 Lafayette Centre location].

AR, Exh. J, NOI at 4.

Our Office considers bid protest challenges to the award or proposed award of contracts. 31 U.S.C. § 3552. Therefore, we generally do not review matters of contract administration, which are within the discretion of the contracting agency and for review by a cognizant board of contract appeals or the Court of Federal Claims. Bid Protest Regulations, 4 C.F.R. § 21.5(a); *Ask Sage, Inc.*, B-423826, Dec. 18, 2025, at 2.

The protester here challenges the notification of intent to negotiate and award a sole-source lease, and denies that it is "seeking to enforce its lease agreement with GSA." Comments & Supp. Protest at 6. Patriots Plaza's arguments, however, are based on the protester's insistence that the agency's real requirements are reflected in the existing lease agreement with GSA, and that the CFTC has no real reason to walk away from that approach.[4] *Id.* at 7-11. In this respect, the protester does not deny that, since the agency defined its requirements for the GSA lease, there has been an "executive order that directed a return to office" and a change in the agency's portfolio and associated need for personnel. Comments & Supp. Protest at 8. Rather, Patriots Plaza characterizes these changes as "distraction" and asserts that "the primary requirement

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[4] For example, the protester claims:

> The record produced by the Agency establishes that its purported requirements are entirely pretextual and that its true reason for seeking [the sole-source lease here] is that it prefers its current location over Patriots Plaza's building. . . . The amount of time that the Agency claims to require for its follow-on procurement is also so unreasonable as to demonstrate the pretextual nature of the alleged requirements. Per the documents in the record, the Agency determined that it would not move into Patriots Plaza in January of 2026. . . . Furthermore, the Executive Director of the Agency himself expressly acknowledged that Patriots Plaza's space could be ready for occupancy with a complete redesign in just over two years, or only one year past the end of the current lease term.

Comments & Supp. Protest at 7, 10.

at issue is square footage," which the agency could satisfy by moving to Patriots Plaza III. *Id.* at 8.

In other words, the protester argues that the CFTC's intent to sole source a lease to Beacon Capital is unreasonable, because it is motivated--and necessitated--by an improper repudiation of an existing contract.[5] To the extent that Patriots Plaza's protest asks our Office to determine the reasonableness of the agency's decision not to proceed as the tenant agency under the GSA lease, such a review implicates matters of contract administration not suitable for resolution in a bid protest. *Cf. Areaka Trading & Logistics Co.*, B-413363, Oct. 13, 2016, at 3 (discussing that an agency's decision not to proceed under a contract "is generally a matter of contract administration that falls outside GAO's bid protest jurisdiction"). We therefore decline to entertain the protester's arguments that the agency's actions are unreasonable because the agency could instead proceed with Patriots Plaza III under a separate agreement. 4 C.F.R. § 21.5(a).

Unreasonable Requirements

The protester also argues that it is not reasonable for the agency to proceed with a "five-year lease for 289,295 rentable square feet." Comments & Supp. Protest at 10. According to Patriots Plaza, "[i]f the Agency reduced its square footage to reflect its actual requirements and provided a reasonable timeline to meet" requirements to outfit that space, "Patriots Plaza and others could compete for this opportunity." *Id.* In essence, the protester asserts that the agency's intention to maintain its footprint means that the sole source award is for square footage that is beyond the agency's minimum needs. According to Patriots Plaza, the agency's minimum needs should be driven by square footage only, which "are a function of the number of personnel and the ratio of space per person." *Id.* at 8. In addition, the protester contends that the 5-year term of the lease is "nonsensical." *Id.* at 10.

The agency counters that the intended lease is designed to meet the agency's minimum needs for continuity of operations while it holds a new competition for a long-term headquarters location. MOL at 16. The agency does not assert that it has determined that it needs 289,295 rentable square feet for its new headquarters; instead, it avers

[5] The record reflects that the lease agreement, signed on April 16, 2024, is between Patriots Plaza and GSA, not the CFTC. AR, Exh. C, Patriots Plaza III Lease at 2. Further, paragraph 6 of the General Clauses to the lease, entitled Substitution of Tenant Agency, states: "The Government may, at any time[,] and from time to time, substitute any Government agency or agencies for the Government agency or agencies, if any, named in the lease." *Id.* at 285. As discussed above, with respect to the lease, GSA sent a letter on March 17, 2026, advising Patriots Plaza that "GSA is actively working to identify an alternate tenant to occupy the leased premises and does not, at this time, expect to engage in a buyout of this Lease." AR, Exh. H, GSA Letter to Patriots Plaza at 2.

that the CFTC needs time to evaluate and establish its requirements in light of changes to where and how its employees will work and what they will work on. *Id.* at 16-17. The agency therefore contends that it is reasonable to execute a lease to remain in its existing space while it takes the time expected to develop those requirements and conduct a new competition. *Id.* at 19. The agency further avers that it determined the term of the lease based on the timeline to develop requirements, issue a solicitation, review proposals, and award a new lease; design, construct, and build out the new space; manage the installation and migration of information technology infrastructure; and relocate employees, which the agency estimates will take approximately 4 years and 3 months. COS at 2.

Based on the record before us, we have no reason to find the agency acted unreasonably in defining its current requirements as continuity of operations in its existing space. With respect to the agency's explanation that it needs to provide for continuity of operations and will need a lease in place at the expiration of its current lease, the protester responds, "we do not dispute the Agency's requirement for space." Comments & Supp. Protest at 18. According to the protester:

> What's unsupportable is both the amount of square footage and the time the agency has proposed for its sole source lease. Both the time and space requirements greatly exceed the Agency's minimum requirements--or, in the alternative, there is no record documentation / conflicting documentation as to these requirements--so the protest must be sustained.

Id. The protester does not engage with the agency's stated need for continuity of operations, Patriots Plaza, instead, argues that the agency's needs should be limited to a calculation of space times people and capped at the agency's "most pessimistic schedule [of] only four years and three months" starting from today. *Id*. at 8 ("Square footage requirements are a function of the number of personnel and the ratio of space per person."); Supp. Comments at 9. Here, the record establishes that the agency has a reasonable need to avoid the duplication of design and construction in a new space and the disruption of a move from its existing headquarters before it has established its actual requirements for its new headquarters. Moreover, while the protester contends that the term of the contract should be limited four years and three months--the agency's "most pessimistic schedule"--we see nothing inherently unreasonable with the agency including a minimal amount of margin by allowing for a five year contract. As such, we have no basis to sustain this argument. *See Phoenix Int'l Holdings, Inc.,* B-424348.2, Aug. 21, 2026, at 7 (rejecting protest asserting that sole source award went beyond minimum requirements where the agency established a reasonable need for continuity).

Alleged Violations of Law

Lastly, the protester contends that the sole-source lease contemplated by the notification would violate "multiple statutes." Protest at 13. Specifically, Patriots Plaza alleges that the agency's planned action will violate the Antideficiency Act, 31 U.S.C. § 1341, which prevents federal agencies from obligating or expending funds in advance or in excess of appropriations, and the Utilizing Space Efficiently and Improving Technologies (USE IT) Act, Pub. L. No. 118-272 § 2302, 138 Stat. 2992, 3219, which addresses the executive branch's utilization of certain types of federal office space. *Id.* at 13-17.

Non-Procurement Statutes

As discussed, our Office is authorized to decide bid protests "concerning an alleged violation of a procurement statute or regulation." 31 U.S.C. §§ 3552, 3553(a). Although protests usually involve alleged violations of statutes that are indisputably procurement statutes, such as the Competition in Contracting Act of 1984, we will hear protests alleging violations of other statutes or regulations when those statutes or regulations have specific procurement-related provisions, meaning that they dictate how the agency may acquire services. *MAXIMUS Fed. Servs., Inc.*, B-422676, Sept. 16, 2024, at 6-7. We do not have jurisdiction to consider alleged violations of law that merely establish standards relevant to how the work should be funded or performed. *Id.*

In this connection, we have explained that our bid protest jurisdiction does not generally extend to questions of fiscal or appropriations law such as the Antideficiency Act, which is not a procurement statute. *NTELX Inc.*, B-413837, Dec. 28, 2016, at 2-3 n.2 (dismissing allegations of violations of purpose statute because they presented fiscal law issues not within our bid protest jurisdiction); *Alliant Enter. JV, LLC*, B-410352.5, B-410352.6, July 1, 2015, at 5 n.8 (dismissing allegation of a violation of the voluntary services prohibition and, in turn, the Antideficiency Act, because the Antideficiency Act is not a procurement statute).

The USE IT Act, on the other hand, is a statute that requires agencies to measure and report utilization of office space, establishes a benchmark for square footage per person, and directs the Office of Management and Budget and GSA to ensure utilization of federally-leased space. Pub. L. No. 118-272 § 2302. Notwithstanding the protester's assertions, while these requirements may be relevant to the procurement of office space, they do not dictate how the government will acquire goods or services. *See CS 321 E. 2nd Investors, LLC v. United States*, 178 Fed. Cl. 471 (Fed. Cl. 2025) (finding the USE IT Act is not a procurement statute for purposes of Court of Federal Claims bid protest jurisdiction). Accordingly, we dismiss these allegations because our bid protest jurisdiction is limited to alleged violations of procurement statues and regulations. 31 U.S.C. § 3552; *NTELX Inc., supra.*

Sole Source Documentation

Patriots Plaza also argues that the agency has not, and cannot, meet the requirements to document a reasonable basis to rely on Revolutionary Federal Acquisition Regulation Overhaul section 6.103-1 and 41 U.S.C. 3304(a)(1) to justify a sole-source award based on there being only one responsible source.[6] Protest at 17-24. In short, Patriots Plaza asserts that it is also a responsible source for the agency's requirement. *Id.*

The agency requests dismissal of the allegation, contending that Patriots Plaza is not an interested party to raise this challenge. Req. for Dismissal at 5. According to the agency, Patriots Plaza "is not an actual bidder and could not even be a prospective bidder because it does not have the available space to meet the CFTC's needs." *Id.* at 5. The protester responds that it could offer the almost 300,000 square feet of space identified in the NOI for a sole-source lease by offering space throughout the Patriots Plaza building complex that includes Patriots Plaza III. Protest at 12.

Where, as here, the agency has issued a notice of intent to make a sole-source award and requested statements of capability from interested firms, our Office has found that, to be an interested party to challenge the sole-source award, a firm must, at a minimum, submit a timely capability statement that shows the firm is both interested in and capable of performing the requirement. *Norden Sys., Inc.*, B-245684, Jan. 7, 1992, at 4 (finding protester was not an interested party where the protester conveyed its disagreement with the terms of the sole source solicitation, but protester never submitted "information which could be construed as a preliminary proposal"). This procedure provides an agency the opportunity to consider any expressions of interest from firms in order to decide whether to open a procurement to competition, while allowing only serious potential offerors to challenge the agency's sole-source decision. *Fraser-Volpe Corp.*, B-240499 *et al.*, Nov. 14, 1990, at 4.

Relevant here, the CFTC's notice of intent to sole-source stated that while this was not a request for competitive proposals nor a solicitation of offers:

> [T]he Government will consider written responses from all responsible sources received by 5 PM ET, June 20, 2026. Written responses must include sufficient information to establish the capability to fulfill the requirement. Oral communications are not acceptable in response to this notice.

AR, Exh. J, NOI at 5. The record reveals--and the protester does not dispute--that Patriots Plaza did not submit a written response by the established deadline. Rather, the protester contends that it did not submit a written response because Patriots Plaza had, effectively been "excluded" from submitting one. Comments at 15. In this regard, the protester argues:

[6] The sole-source notice advised: "The Government intends to procure this requirement under Revolutionary FAR Overhaul 6.103-1 and 41 U.S.C. 3304(a)(1) because 'the property or services needed by the executive agency are available from only one responsible source and no other type of property or services will satisfy the needs of the executive agency.'" AR, Exh. J, NOI at 4.

> CFTC specifically excluded Patriots Plaza from submitting a written response to its NOI. The NOI states in relevant part "this necessity [entering into a sole source lease] is the result of CFTC's changing requirements and a determination by CFTC leadership that [Patriots Plaza III] was insufficient for CFTC's needs."

Id. (internal citations omitted).

In other words, the protester's only basis for its assertion that the agency had "excluded" the firm from submitting a response was from the one sentence in the NOI explaining the necessity for the NOI. Based on the record here, we find the protester's argument to be wholly unpersuasive. At most, the statement in the NOI simply asserts that the GSA leased space at Patriots Plaza III (for 147,050 RSF) was insufficient for the CFTC's changing needs. AR, Exh. J, NOI at 5. There is nothing in the notice that either expressly or affirmatively "excludes" or prohibits Patriot Plaza from submitting a written response, explaining why or how the protester has the capabilities to fulfill the requirements. Accordingly, we find the protester's interpretation of the notice as "excluding" if from submitting a capability statement to be both self-serving and unreasonable.

Although the protester now argues that it has sufficient square footage to respond to the NOI, there is no dispute that the protester did not submit a response to that notification. *See* Supp. Protest at 15. In short, Patriots Plaza did not submit a statement of capability attesting to its ability to meet the agency's requirements, and the protester's representation in the protest with our Office that it could meet the agency's requirements do not constitute such a submission. *Economic Sys., Inc.*, B-423747, B-423747.2, Aug. 22, 2025, at 5. The protester is therefore not an interested party to challenge the agency's compliance with sole source documentation requirements because it failed to submit a capability statement. *Id.*

The protest is denied.

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