



United States Government Accountability Office  
Washington, DC 20548

## Decision

**Matter of:** Serco Inc.  
**File:** B-410676.2  
**Date:** December 12, 2014

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David M. Nadler, Esq., David M. Yang, Esq., and Andrew E. Smith, Esq., Dickstein Shapiro LLP, for the protester.  
Antonio R. Franco, Esq., and Kathryn V. Flood, Esq., Piliero Mazza PLLC, for Armed Forces Services Corp., the intervenor.  
Capt. Vera A. Strebels, Department of the Army, for the agency.  
Jennifer D. Westfall-McGrail, Esq., and Edward Goldstein, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

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### DIGEST

Where value of bridge task order issued by agency is less than \$10 million, GAO lacks jurisdiction to consider protest alleging that agency improperly issued order on a sole-source basis.

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### DECISION

Serco Inc., of Reston, Virginia, protests the Department of the Army's issuance of bridge task order (TO) No. W91WAW-11-D-0031-2E21, for support of the Installation Management Command Army OneSource Outreach Program, to Armed Forces Services Corp. (AFSC), of Arlington, Virginia. The protester contends that (1) issuance of the bridge task order constituted an improper de facto override of the automatic stay of performance triggered by the Competition in Contracting Act, 31 U.S.C. § 3553(c) (2006) in connection with a prior protest filed by Serco, and (2) the agency issued the task order on a sole-source basis without making an appropriate determination that the use of other than competitive procedures was justified.

We dismiss the protest because it is not within our jurisdiction.

On September 29, 2014, the Army notified the protester, which was the incumbent provider of the services, that it had issued an order (TO No.

W91WAW-11-D-0031-2E20) for support of the Army OneSource Outreach program to AFSC.<sup>1</sup> The protester requested a debriefing on September 30, which the agency provided on October 8. AFSC performed phase-in under the new task order between October 1 and October 12, and began full performance on October 13. Serco protested to our Office on October 14, and we provided the agency with notice of the protest the same day. On October 16, the contracting officer directed AFSC to suspend performance on the task order.

On Friday, October 17, the agency issued bridge TO No. 2E21, with a period of performance of October 20, 2014 to January 27, 2015, to AFSC. On Monday, October 20, AFSC accepted the order with a total value of \$1,072,444.82. Agency Dismissal Request, Exh. B, DD Form 1155, Order No. 2E21. On October 27, Serco filed a second protest with our Office objecting to issuance of the bridge task order. On October 29, the contracting officer directed AFSC to stay performance on the bridge order.

By letter of October 31, the Army notified our Office that it intended to take corrective action in response to the initial protest by reevaluating the protester's proposal and making a new source selection decision. By decision of November 6, we dismissed Serco's protest as academic.

On November 3, the agency requested dismissal of the bridge task order protest on the grounds that because the value of the order was less than \$10 million, we lacked jurisdiction over the protest. The protester argued in response that because the bridge order is carved out of the original task order, the value of the original order, which is over \$10 million, should be considered for purposes of determining whether the threshold for exercise of our jurisdiction has been met.

Protests filed with our Office in connection with the issuance or proposed issuance of a task or delivery order under a multiple-award contract are not authorized except where the order is valued over \$10 million, or where the protester can show that the order increases the scope, period, or maximum value of the contract under which the order is issued. 10 U.S.C. § 2304c(e) (2012); Edmond Scientific Co., B-410187.2, Dec. 1, 2014, 2014 CPD ¶ \_\_\_\_ at 2.

As an initial matter, for reasons unrelated to the dollar value of the task order at issue, the first issued raised by Serco--whether issuance of the bridge contract constituted a de facto override of the CICA stay--is not a matter for consideration by

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<sup>1</sup> We were not provided with copies of either the task order request or the task order issued on September 29, and thus do not have information regarding the period of performance. The notice of award indicated that the order was issued against a multiple-award indefinite-delivery/indefinite-quantity contract.

this forum. See 4 C.F.R. § 21.6 (2014) (“GAO does not administer the requirements to stay award or suspend contract performance under CICA”).

The second issue--whether the agency properly issued the task order on a sole source basis--does, however, turn on our \$10 million jurisdictional threshold. In this regard, we conclude, notwithstanding the protester’s arguments to the contrary, that we have no basis to consider the value of the original order when determining the value of the bridge task order. Rather, for purposes of determining our jurisdiction, the value of the bridge task order on its face is controlling since the terms of the order define the scope and terms of the contractual commitment between the contractor and the government. See Goldbelt Glacier Health Servs., LLC, B-410378, B-410378.2, Sept. 25, 2014 CPD ¶ 281 at 3 (actual dollar amount of order issued was appropriate measure of task order value). Accordingly, because the value of the bridge task order is less than \$10 million, we lack jurisdiction to consider the protester’s challenge.

The protest is dismissed.

Susan A. Poling  
General Counsel