

WAS THE AGENCY’S CICA OVERRIDE MERELY ARBITRARY AND CAPRICIOUS, OR MUST THE PROTESTER MEET THE FOUR FACTOR EQUITABLE TEST FOR A PRELIMINARY INJUNCTION?

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Life Science Logistics, LLC v. United States, No. 2024-1522 (Fed. Cir. April 15, 2026, concerns the automatic “stay” provision in the Competition in Contracting Act (“CICA”), and an action taken in the Court of Federal Claims by the protester LSL that alleged that the override was unlawful because the agency’s reasoning was arbitrary and capricious in violation of the Administrative Procedure Act (“APA”), 5 USC § 706(2), seeking a declaratory judgment or an injunction reimposing the CICA Stay. The case deals with the reasoning that is required to re-impose the stay while the protest is pending.

In 2021, Life Science Logistics’ (“LSL”) 10 year contract, awarded by the General Services Administration (“GSA”) expired. The contract was for operation, storage and deployment of medicines, vaccines and medical supplies in the Strategic National Stockpile (“SNS”). GSA awarded a bridge contract, and issued a solicitation for a new 10 year contract. In response, LSL submitted an offer, as did its competitor, Integrated Quality Solutions, LLC (“IQS”). GSA awarded the Contract to IQS. LSL then submitted a protest to the Government Accountability Office (“GAO”), and lodged two subsequent protests of this award. The third protest triggered an automatic stay of the contract under CICA which stopped GSA and IQS from beginning performance for 100 days, while GAO evaluated the protest. A few weeks into the 100 day period, GSA decided to “override” the protest, asserting that there were “urgent and compelling circumstances” that significantly affected the interests of the U.S. and that did not permit waiting for the GAO decision on the protest and that performance should not be stopped. The Court of Federal claims ruled against the government’s assertion that in order to override the stay, LSL was required to prove it was entitled to injunctive relief under the four equitable factors that the courts traditionally used, which are:

- Likelihood of success on the merits;
- Irreparable harm;
- Balance of the equities; and
- The public interest.

The government appealed to the Federal Circuit which addressed the merits because even though the case appeared moot (at the time of the litigation), the issue raised was “capable of repetition yet evading review.” The Federal Circuit held that the Court of Federal Claims was correct when it granted declaratory relief without determining without first evaluating whether LSL met the traditional four-factor test. The protester in such a case need only show that in fact, the agency’s override was arbitrary and capricious without a showing that it met the four factor test above.

CICA sets out the following “Procurement Protest System, 31 USC § 3551, *et seq*:

- (1) An agency may award a contract to an eligible bidder;
- (2) An interested party may file a protest;

- (3) Upon the filing of such a protest, a CICA stay is automatically triggered and lasts up to 100 days;
- (4) The agency, upon making certain findings, may override the stay and proceed with performance of the contract; and
- (5) The protest may then file an Administrative Procedure Act claim in the Court of Federal Claims challenging the override as an arbitrary and capricious action.

(Note: the GAO does *not* have jurisdiction to consider the challenge of the override—only the Court of Federal Claims has jurisdiction).

The Federal Circuit stated there was “no place in this statutory regime for courts to superimpose the judge made four factor test governing equitable relief as an additional burden to the protester. The stay is *automatic*, triggered by the filing of a protest, and Congress did not intend that the four factors be shown—merely that party show that the override was arbitrary and capricious. The Federal circuit also noted that there was nothing “coercive” in what the Court of Federal Claims did—it simply restored the statutory stay. This was not tantamount to an injunction.

Takeaway: It is not necessary for a bid protester to satisfy the four-factor equitable relief test in order to overcome an arbitrary and capricious government override of an automatic CICA stay.

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