

A COMPANY THAT CANNOT OFFER A QUALIFIED PRODUCT ON SOLE SOURCE PROCUREMENT IS NOT AN INTERESTED PARTY TO PROTEST

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Coulson Aviation protested at the Government Accountability Office (“GAO”) a sole source contract award by the U.S. Department of Agriculture (“USDA”) Forest Service for aerial long term fire retardant (“LTFR”) products and ancillary services to air tanker bases. *Coulson Aviation USA, Inc.*, B-423952, Feb. 4, 2026. After receiving no response to its notice that it intended to award a sole source contract, and citing FAR 6.302-1 (“Only one responsible source and no other supplies or services will satisfy agency requirements.”), the Forest Service posted a notice of sole source award of an indefinite delivery, indefinite quantity of products and services to Perimeter Solutions and a justification and approval (“J&A”) document. It should be noted that only fully qualified LTFR products may be used on National Forest Service System lands.

The J&A noted that Perimeter was the only supplier that had received full qualification of an aerial LTFR product, and that there were three other firms had products in testing. Coulson was not one of these three firms. 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.”

Coulson challenged the agency’s justification for the sole source award as well as its scope. The agency disputed the merits of the protester’s allegations, and also asserted that Coulson was not an interested party to protest because it could not offer a qualified aerial LTFR product.

The GAO rules state that only an “interested party” may file a protest. 4 CFR § 21.0(a)(1). The 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 the contract. A protester is not an interested party if it is not eligible to be receive a contract award, and furthermore, the GAO determines whether a party is interested based on the current record, not some potential future capability of an offeror.

Although Coulson contended that it will soon begin testing its product and could have a qualified product during the contract’s 5 year period of performance, it is not clear when it could achieve qualification. The Forest Service stated in its agency report that the qualification testing was paused pending the revision of the specification, and the agency did not anticipate a revised specification until 2027 at the earliest, and full qualification of an additional source would likely take until the end of 2028 or in 2029 in the best case scenario. Therefore, Coulson is not “on the brink of qualification” for this product. The fact remained that Coulson could not offer a qualified LTFR product, was not an interested party to challenge the award, and was not currently capable of supplying a fully qualified LTF product to meet Forest Service needs as required in this procurement. GAO dismissed the protest.

Takeaway. You must be an interested party, as set forth in the GAO rules and explained above, in order to protest at the GAO. Being an interested party and submitting a timely protest are two

sine qua non's (mandatory requirements) before GAO will even consider your protest. Do not waste your time or money on a protest if you don't meet these requirements and also have a factual basis for your protest.

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