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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SPACE EXPLORATION
TECHNOLOGIES CORPORATION,

Plaintiff - Appellant,

v.

THE BOEING COMPANY; LOCKHEED
MARTIN CORPORATION,

Defendants - Appellees.

No. 06-55907

D.C. No. CV-05-07533-FMC

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Florence Marie Cooper, District Judge, Presiding

Argued and Submitted February 4, 2008
Pasadena, California

Before: KOZINSKI, Chief Judge, O'SCANNLAIN and W. FLETCHER, Circuit
Judges.

Space Exploration Technologies Corp. (SpaceX) was not eligible to compete
for the U.S. Air Force (USAF) Buy 3 launch contracts for fiscal year 2006. *See*
Space Exploration Techs. Corp. v. United States ("SpaceX"), 68 Fed. Cl. 1, 4, 6-7

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

(2005). SpaceX's complaint does not allege that SpaceX was in fact improperly barred from competing for subsequent USAF contracts.

We affirm the district court's judgment that SpaceX lacks Article III standing to bring its claims. *See Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 180-81 (2000); *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 563-64 (1992); *Warth v. Seldin*, 422 U.S. 490, 504-05 (1975). The injury and causation as alleged in SpaceX's complaint are too speculative to establish standing. *See Lujan*, 504 U.S. at 564 & n.2.

We do not reach the issue of whether SpaceX would have Article III standing to bring a claim in the event that SpaceX was not "accorded every opportunity to compete for *future* contracts." *SpaceX*, 68 Fed. Cl. at 5 n.5 (emphasis added). The issue of future launch contracts was not before the U.S. Court of Federal Claims and is not before us.

AFFIRMED.