



# Decision

**Matter of:** Mission Analytics, LLC--Reconsideration

**File:** B-422841.2

**Date:** April 18, 2025

---

Michael F. Winters for the requester.

Jonathan S. Baker, Esq., Department of Commerce, for the agency.

Sarah T. Zaffina, Esq., and Jennifer D. Westfall-McGrail, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

---

## DIGEST

Request for reconsideration of prior decision is denied where the requesting party has not shown that our decision contains material errors of fact or law.

---

## DECISION

Mission Analytics, LLC, a small business of Falls Church, Virginia, requests that we reconsider our decision, *Mission Analytics, LLC*, B-422841, Sept. 6, 2024 (unpublished decision), dismissing its protest challenging the terms of request for quotations (RFQ) No. 1333ND24QNB770135, issued by the Department of Commerce, National Institute for Standards and Technology (NIST) for a direct view light-emitting diodes (LED) display system. Mission Analytics argued that the agency improperly omitted Federal Acquisition Regulation (FAR) provision 52.204-22, Alternative Line Item Proposal, from the RFQ. We dismissed the protest because NIST demonstrated that Mission Analytics's allegations were incorrect as a matter of law and did not constitute a valid basis of protest in that FAR provision 52.204-22 is not a required FAR provision under FAR part 12, Acquisition of Commercial Products and Commercial Services. The requester argues our decision contained errors of law that warrant modification of our prior decision.

We deny the request for reconsideration.

## BACKGROUND

The RFQ sought the provision of an LED system with specific requirements. Req. for Dismissal at 1. The solicitation, a fixed-price contract to supply commercial items, was issued in accordance with FAR part 12 and contained all required clauses in

accordance with FAR section 12.301, including FAR provision 52.212-1, Instructions to Offerors-Commercial Products and Commercial Services, required by FAR subsection 12.301(b). *Id.*

Prior to the deadline for receipt of quotations, Mission Analytics filed an agency-level protest with NIST that challenged the terms of the solicitation and argued that FAR provision 52.204-22 was improperly omitted from the solicitation. Protest at 1-2, 11-12. The agency did not amend the solicitation or toll the deadline for receipt of quotations in response to the agency-level protest. *Id.* at 2. Mission Analytics then timely filed a protest with our Office.

In its protest, Mission Analytics argued that the solicitation was required to include FAR provision 52.204-22 because FAR section 4.1008 directs agencies to include the provision at 52.204-22, Alternative Line Item Proposal, in all solicitations.<sup>1</sup> Protest at 1. FAR provision 52.204-22 invites vendors to “propose alternative line items for which bids, proposals, or quotes are requested,” and in Mission Analytics’s view, this was different from FAR provision 52.212-1, which allows “MULTIPLE offers, but makes no reference to SINGLE offers.” Protest at 1 (citing FAR provision 52.204-22(a)). Mission Analytics argued that “the absence of [FAR] 52.204-22 created a patent ambiguity” in the solicitation. *Id.*

NIST requested dismissal of the protest prior to the deadline for submitting the agency report and argued, among other things, that FAR provision 52.204-22 is not required for fixed-price commercial item contracts solicited pursuant to FAR part 12. Req. for Dismissal at 2. The agency noted that vendors were not precluded from submitting quotations with alternative line items because the solicitation included FAR provision 52.212-1(e), which encourages “multiple offers presenting alternative terms and conditions, including alternative line items.” *Id.* at 3 (quoting FAR provision 52.212-1(e)).

Mission Analytics responded that FAR provisions 52.204-22 and 52.212-1(e) are not interchangeable as the agency suggested because FAR provision 52.212-1(e) references multiple offers and not single offers, and “therefore cannot be used to justify the absence of 52.204-22.” Resp. to Req. for Dismissal at 4 (emphasis omitted). Mission Analytics also maintained that NIST’s dismissal request completely ignored other subsections of FAR section 12.301--specifically FAR subsections 12.301(a)(1) and (2)--requiring clauses to implement executive orders and other federal laws, as well as clauses consistent with commercial practice. *Id.* at 1; *see also* FAR 12.301(a)(1) (“Required to implement provisions of law or executive orders applicable to the acquisition of commercial products or commercial services. . . .”); FAR 12.301(a)(2) (“Determined to be consistent with customary commercial practice.”).

---

<sup>1</sup> Reference throughout this decision to documents other than the request for reconsideration are to the parties’ submissions in the original protest. Additionally, citations to the record use the Adobe PDF pagination of documents.

On September 6, we dismissed the protest because it did not establish a valid legal basis for challenging the solicitation terms. *Mission Analytics, LLC, supra*. In this connection, we found that the procurement was being conducted in accordance with FAR part 12 and that FAR sections 12.301(b) and (d) identified the required FAR provisions and clauses. *Id.* at 2. Specifically, our decision stated that “[n]otwithstanding prescriptions contained elsewhere in the FAR, when acquiring commercial products or commercial services, contracting officers shall be required to use only those provisions and clauses prescribed in this part.” *Id.* (quoting FAR 12.301(d)). We concluded that FAR provision 52.204-22 was not identified among the required provisions and therefore was not required by the FAR. *Id.*

## DISCUSSION

Mission Analytics requests reconsideration of our decision dismissing its protest and contends that the decision contained an error of law. Req. for Recon. at 1; Amended Req. for Recon. at 1. The requester argues we erroneously ignored FAR subsection 12.301(a) in our decision dismissing the protest and that we incorrectly concluded that FAR provision 52.204-22 was not a required provision for procurements conducted under FAR part 12. See Req. for Recon at 1; Amended Req. for Recon. at 1-2. For the reasons discussed below, we find that none of the arguments presented by the requester provides a basis to grant the request for reconsideration.

Under our Bid Protest Regulations, to obtain reconsideration, the requesting party must set out the factual and legal grounds upon which reversal or modification of the decision is deemed warranted, specifying any errors of law made or information not previously considered. 4 C.F.R. § 21.14(a). We will reverse a decision upon reconsideration only where the requesting party demonstrates that the decision contains a material error of law or facts. *Alion Sci. & Tech. Corp.--Recon.*, B-420778.3, Dec. 27, 2022, 2023 CPD ¶ 39 at 2. The repetition of arguments made during our consideration of the original protest and disagreement with our decision do not meet this standard. *Id.* at 5-7.

In its request for reconsideration, Mission Analytics argues that our analysis was improperly limited to FAR subsections 12.301(b) and (d). Mission Analytics contends that FAR subsections 12.301(a)(1) and (2) expand “the list of required clauses BEYOND those listed and required by 12.301(b) and 12.301(d)” and presents examples of FAR clauses required in solicitations under FAR subsection 12.301(a)(1). Amended Req. for Recon. at 1-2. One example is FAR clause 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations-Representation, which is required for compliance with 6 U.S.C. § 395, prohibition on contracts with corporate expatriates. *Id.* at 1. In the requester’s view, “GAO has not established that [FAR section] 12.301, in toto, restricts the inclusion of [FAR provision] 52.204-22” and “there is no legal basis to conclude that the mandatory requirement of [FAR section] 4.1008 is not required to be followed.” *Id.* at 2.

This contention echoes the arguments Mission Analytics previously made in opposition to the agency’s dismissal request, where Mission Analytics argued there were

provisions and clauses “expressly directed by Federal Law” or necessary when “determined to be consistent with customary commercial practice.” Resp. to Req. for Dismissal at 2 (citing FAR 12.301(a)(1) & (2)). As noted above, our Office considered this argument before issuing its decision. Neither Mission Analytics’s repetition of its previous argument nor its disagreement with our conclusions satisfy our standard for reconsideration. *Alion Sci. & Tech. Corp.--Recon.*, *supra* at 7.

Mission Analytics incorrectly implies that because our decision only referenced FAR subsections 12.301(b) and (d) we ignored or otherwise failed to consider the arguments presented by Mission Analytics about FAR provision 12.301(a) in its response to the agency’s dismissal request. Our Office reviews all issues raised in protests though our decisions may not necessarily address every argument advanced consistent with our mandate to provide for the “inexpensive and expeditious resolution of protests.” *AOC Connect, LLC--Recon.*, B-416658.3, Feb. 12, 2019, 2019 CPD ¶ 79 at 3-4 n.1. (quoting 31 U.S.C. § 3554(a)(1)). The fact that our decision did not address FAR subsection 12.301(a) does not provide a basis to reconsider our decision. See *Gulf Civilization General Trading & Contracting Co.--Recon.*, B-416140.3, Nov. 20, 2019, 2019 CPD ¶ 391 at 6-7 n.3. Mission Analytics’s efforts to reargue the merits of the underlying protest do not demonstrate an error of fact or law that warrants reversing or modifying our decision.

The request for reconsideration is denied.

Edda Emmanuelli Perez  
General Counsel