



Decision

Matter of: Oready, LLC

File: B-424508.2; B-424509.2; B-424510.2

Date: September 10, 2026

Michael Faro for the protester.
William B. Blake, Esq., Department of the Interior, for the agency.
Nathaniel S. Canfield, Esq., and Evan D. Wesser, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Request for reconsideration of decision dismissing protests as untimely filed is denied where the requester has not demonstrated error in the determination that emails to the contracting officers attaching protests filed with GAO were not agency-level protests.

DECISION

Oready, LLC, a small business of Las Vegas, Nevada, requests reconsideration of our decision in *Oready, LLC*, B-424508 *et al.*, June 8, 2026, in which we dismissed protests of the terms of three requests for quotations (RFQ) as untimely filed. The requester contends that our decision erroneously concluded that submitting copies of protests filed with our Office to the contracting officers cannot constitute agency-level protests under Federal Acquisition Regulation (FAR) section 33.103, and therefore erred in dismissing the protests as untimely filed.

We deny the request for reconsideration.

BACKGROUND

The requester filed protests with our Office challenging the terms of three RFQs, Nos. 140A2326Q0114; 140A2326Q0116; and 140A2326Q0117, issued by the Department of the Interior, Bureau of Indian Education, for commercial occupational therapist and certified occupational therapist assistant services at T'iis Ts'ozi Bi'Olta'/Crownpoint Community School, in Crownpoint, New Mexico; speech/language therapy services at Tohaali Community School in Newcomb, New Mexico; and occupational therapy services, also at Tohaali Community School, respectively.

Oready, supra at 1. The requester contended that each RFQ included terms that unjustifiably limited competition. *Id.*

We dismissed the protests pursuant to our timeliness rules, which specifically require that a protest based upon alleged improprieties in a solicitation that are apparent prior to the closing time for receipt of initial proposals must be filed before that time. *Id.* at 2-3. Relevant to our analysis, each RFQ, as amended, specified a closing time for submission of quotations on May 15, 2026, at 5:00 p.m. Mountain Daylight Time (MDT). *Id.* at 2. All three protests challenging the terms of those RFQs were submitted to our Office after our closing time of 5:30 p.m. Eastern Time (ET) on May 15. *Id.* We therefore concluded that, as provided in our Bid Protest Regulations, the submission after our Office had closed meant that each protest was filed when our Office reopened on May 18. *Id.* (citing 4 C.F.R. § 21.0(g); *CWIS, LLC*, B-416544, July 12, 2018). Additionally, we noted that as a general matter under 4 C.F.R. § 21.2(a)(1), when our Office will be closed at the time established for receipt of proposals or quotations--as our Office was at 5:00 p.m. MDT, or 7:00 p.m. ET, on May 15--protests must be filed by 5:30 p.m. ET on the last day on which our Office is open before the solicitation closing time. *Id.* (citing *Bland & Assocs., PC*, B-419924, Sept. 28, 2021, at 3; *FitNet Purchasing Alliance*, B-400553, Sept. 24, 2008, at 1-2). We therefore dismissed the protests as untimely filed. *Id.* at 3.

We also rejected the requester's argument, advanced in the underlying protests, that by sending copies of the protests to the contracting officers at the time of submission to our Office, the requester had, in effect, filed timely agency-level protests of the RFQs on May 15 before each RFQ's closing time. *Id.* at 2-3. The requester contended that the timeliness exception in 4 C.F.R. § 21.2(a)(3) applied because each protest filed with our Office was therefore "a subsequent protest to GAO." *Id.* at 2. We concluded that the protester's pre-closing time emails to the contracting officers did not constitute agency-level protests, as they stated that they were providing copies of the protests addressed to our Office, invoking our Office's regulations and requesting decisions from our Office. *Id.* at 3. Consequently, they did not meet the requirements for an agency-level protest set forth in FAR section 33.103, which include, *inter alia*, addressing a protest to the contracting officer or other cognizant agency protest official and making a request for an agency ruling. *Id.*

This request for reconsideration followed.

DISCUSSION

To obtain reconsideration, our regulations require that the requesting party set out the factual and legal grounds upon which reversal or modification of the decision is deemed warranted, specifying any material errors of law made or information not previously considered. 4 C.F.R. § 21.14(a). The repetition of arguments made during our consideration of the original protest and disagreement with our decision do not meet this standard. 4 C.F.R. § 21.14(c); *Epsilon Sys. Sols., Inc.--Recon.*, B-414410.3, Sept. 20, 2017, at 3.

The requester contends that our decision dismissing its protests erred in concluding that because the protests were GAO protests, they could not also simultaneously be agency-level protests by virtue of the requester's submission of copies of them to the relevant contracting officers, arguing that our analysis was inconsistent with our previous decisions stating that an expression of dissatisfaction and request for corrective action is sufficient to constitute an agency-level protest. Req. for Recon. at 3-6. As discussed below, we reject the requester's arguments.

In our dismissal decision, we noted that among the requirements set forth in FAR section 33.103 that an agency-level protest "shall include" are a "[r]equest for a ruling by the agency" and that the protest "be addressed to the contracting officer or other official designated to receive protests." *Oready, supra* at 3 (citing FAR 33.103(d)(2), (3)). We examined the requester's emails to the agency's contracting officers providing copies of the protests filed with our Office and found that they failed to include those required elements. In that regard, each email stated that it was providing "a copy of the protest filed with GAO," the attached protest document was expressly addressed to our Office, invoked our Office's regulations in 4 C.F.R. part 21, and requested relief from our Office. *Id.* None of the protests was addressed to any official at the Department of the Interior or the Bureau of Indian Education specifically, and none requested a ruling from that agency. *Id.* Thus, we concluded that the requester's transmissions to the agency did not satisfy the requirements to include a request for a ruling by the agency and that the protest be addressed to the contracting officer or other cognizant agency official. The requester therefore incorrectly characterizes our decision as "resolv[ing] the question [of whether the requester had filed an agency-level protest] by establishing that the documents were GAO protests . . . and treat[ing] that as dispositive." Req. for Recon. at 4. Rather, we examined the documents the requester contended constituted agency-level protests and found that they failed to meet the relevant requirements of FAR section 33.103. Because they did not meet those requirements, they were not agency-level protests.

The requester further contends that our decision is at odds with our decisions stating that, to be an agency-level protest, a communication does not have to state explicitly that it is intended as a protest; it is sufficient to express dissatisfaction with an agency decision and request corrective action. Req. for Recon. at 5-6. In particular, the requester cites our decision in *VSolvit, LLC*, B-421048, B-421048.2, Dec. 6, 2022, in which we concluded that an email to the procuring agency's senior procurement executive was an agency-level protest because it expressed concern with the agency's interpretation of a solicitation and requested specific relief from the senior procurement executive on the issue raised. *Id.* at 5-6 (citing *VSolvit*). The requester contends that "[t]he only material difference between the two records is that [the requester's] document was also filed with GAO." *Id.* at 6.

The current rules governing agency-level protests find their basis in Executive Order 12979, issued on October 25, 1995. See FAR 33.103(a) ("Executive Order 12979, Agency Procurement Protests, establishes policy on agency procurement

protests.”). In that order, the President directed agencies to “prescribe administrative procedures for the resolution of protests to the award of their procurement contracts as an alternative to protests in fora outside the procuring agencies.” 60 Fed. Reg. 55171 (Oct. 27, 1995). To implement that order, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council amended the agency procurement protest procedures found at FAR section 33.103. See 61 Fed. Reg. 39219-39220 (July 26, 1996) (interim rule); 62 Fed. Reg. 270-271 (Jan. 2, 1997) (final rule). There have been minor amendments to section 33.103, see 62 Fed. Reg. 10709, 10710 (Mar. 10, 1997); 62 Fed. Reg. 51224, 51271 (Sept. 30, 1997), but the current rules are substantially the same as when they were promulgated.

Both prior to and after the issuance of Executive Order 12979 and the promulgation of implementing regulations, our Office has addressed whether a communication to an agency constituted an agency-level protest. As we have consistently explained, although a letter or email does not need to explicitly state that the letter or email is intended as a protest for it to be considered an agency-level protest, a written statement must—at least—convey the intent to protest by a specific expression of dissatisfaction with the agency’s actions and a request for relief. *Byrd Enters. Unlimited, Inc.*, B-421462, May 9, 2023, at 3. We applied that same standard in decisions that predated Executive Order 12979 and those after its issuance. See, e.g., *Prosearch*, B-206316, June 30, 1982, at 2 (expression of dissatisfaction to the agency and request for corrective action constituted agency-level protest); *Chesapeake and Potomac Tel. Co.*, B-224228, B-224228.2, Feb. 5, 1987, at 3-4 (same); *American Material Handling, Inc.*, B-250936, Mar. 1, 1993, at 2-3 (same); *Marvin J. Perry & Assocs.*, B-277684, B-277685, Nov. 4, 1997, at 2-3 (same); *RTI Techs., LLC*, B-401075, Apr. 15, 2009, at 2-3 (same); *Impact Resources, Inc.*, B-416093, June 11, 2018, at 5 (same).

Where a communication to an agency does not convey the intent to protest, however, we have concluded that it did not constitute an agency-level protest. See, e.g., *Unico, Inc.*, B-215388, June 20, 1984, at 1 (letter filed with contracting officer expressing concern with specifications and indicating intention to file future protest did not constitute agency-level protest); *ILC Dover, Inc.*, B-244389, Aug. 22, 1991, at 2 (letter to agency stating view that requirement ought to be competed expressed only hope or expectation and therefore did not constitute agency-level protest); *Western Star Hosp. Auth., Inc.*, B-414198.2, B-414198.3, June 7, 2017, at 7 (email to contracting officer expressing dissatisfaction with request to extend proposal acceptance period was not an agency-level protest where it did not request any response or relief from the agency, but only suggested that the protester would file a protest with GAO); *The Ulysses Grp., LLC*, B-420566, June 7, 2022, at 6 (email to contracting officer suggesting that the agency have a backup email to submit proposals did not request specific relief or a ruling from the agency, and therefore was not an agency-level protest).

Thus, the guiding principle we have applied in determining whether a communication was an agency-level protest is whether it conveyed an “intent to protest.” Moreover, the dispositive facts to which we have looked in our decisions applying that principle make clear that the full meaning of that phrase is “intent to protest *to the agency*.” To that

end, as noted above, even in our decisions acknowledging that a communication need not explicitly state that it is intended as a protest, we have stated that a requisite element to be an agency-level protest is a request for relief or a ruling *from the agency*. See, e.g., *The Ulysses Grp.*, *supra* at 6 (protester did not request specific relief or a ruling from the agency); *Silver Investments, Inc.*, B-419028, Oct. 26, 2020, at 4-5 (protester did not request a ruling or any specific relief from the agency); *Western Star*, *supra* at 7 (protester did not request any response or relief from the agency). In part, it is by requesting relief or a ruling from an agency that a protester conveys an intent to file an agency-level protest to which the agency is obliged to respond pursuant to FAR section 33.103.

In that regard, contrary to the requester's contention, the fact that it filed its protests with our Office is not the "only material difference" between the facts of the underlying protests here and those in *VSolvit*. In *VSolvit*, we examined the protester's email to the agency's senior procurement executive to determine whether it, at a minimum, expressed dissatisfaction with an agency decision and requested corrective action. *VSolvit*, *supra* at 6 (citing *Western Star*, *supra* at 6). We concluded that it did, noting that the email "request[ed] specific relief *from the senior procurement executive*." *Id.* (emphasis added). Here, the requester's emails to the contracting officers did not include such a request. Rather, they stated only that they were attaching protests filed with our Office, and the protests themselves requested relief from our Office. *Oready*, *supra* at 3.

The requester attempts to reframe the requests for relief contained in the protests as being directed to the agency, stating that the attached protests included "an enumerated list of corrective actions only the agency could take[.]" Req. for Recon. at 6. The protests, however, unambiguously requested that GAO sustain the protest and recommend that the agency take the enumerated actions. Protest B-424508 at 10 ("Oready respectfully requests that GAO sustain the protest and recommend that [the agency take the following listed actions]"); Protest B-424509 at 10 ("Oready respectfully requests that GAO sustain the protest and recommend that [the agency] amend RFQ No. 140A2326Q0116, extend the [quotation] deadline, and reopen the question period. Specifically, Oready requests that [the agency] be directed to [take the following listed actions]"); Protest B-424510 at 9 ("Oready requests that GAO recommend that [the agency take the following listed actions]"). Thus, the requester presented the agency with a request that our Office take action--*i.e.*, recommend that the agency take particular actions--not a request for any response or relief from the agency, thereby substantively distinguishing the facts of the underlying protests from those in *VSolvit*. Moreover, we previously have concluded that a protester's letter to the contracting officer was not a protest to the agency because it requested a ruling by our Office, rather than the agency. See *Great Sw. Constr., Inc.*, B-252917, Apr. 14, 1993, at 3 (letter was not an agency-level protest because it "did not request any response or relief from the agency; instead, it asked for a ruling by our Office"). Accordingly, the requester's emails attaching copies of the protests filed with our Office did not convey an intent to protest to the agency and therefore were not agency-level protests.

Further supporting our conclusion is the fact that the requester filed those protests with our Office. Where a protester chooses to submit a protest to our Office in accordance with our procedures, including paying the requisite filing fee, addressing the protest to our Office, invoking our Office's regulations at 4 C.F.R. part 21, and requesting relief from our Office, such actions do not convey an intent to protest to an agency. The provision of a copy of such a protest filed with our Office to an agency in accordance with the requirements of 4 C.F.R. § 21.1(e) also conveys no intent to protest to that agency. This is consistent with Executive Order 12979, which specifically directs the establishment of agency-level protest procedures to provide for "an *alternative* to protests in fora outside the procuring agencies[.]" such as our Office. 60 Fed. Reg. 55171 (emphasis added). Filing a protest with our Office does not convey an intention to pursue a protest through the alternative forum of the agency.

Additionally, our conclusion is consistent with the policy aims underlying the bid protest processes both here and at agencies. The Competition in Contracting Act of 1984 directs our Office to "provide for the inexpensive and expeditious resolution of protests[.]" 31 U.S.C. § 3554(a)(1). Similarly, Executive Order 12979 directs agencies to "provide for inexpensive, informal, procedurally simple, and expeditious resolution of protests[.]" 60 Fed. Reg. 55171. It is contrary to those policy goals to require an agency, upon receipt of a copy of a protest filed with our Office, to determine whether such a communication constitutes an agency-level protest under FAR section 33.103, to which the agency must respond under the procedures prescribed there. The requester's position, however, would require an agency to undertake just such an analysis, thereby introducing confusion among all parties as to whether the protest is to be resolved by the agency pursuant to FAR section 33.103 or our Office pursuant to 4 C.F.R. part 21. Clouding the procedural path to resolution of a protest in this manner, thus, is antithetical to the policy directives of the bid protest process.

The request for reconsideration is denied.

Edda Emmanuelli Perez
General Counsel