

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-218557.2; B-218558.2; **DATE:** June 5, 1985
B-218559.2

MATTER OF: Franklin Wire & Cable Company--
Reconsideration

DIGEST:

1. GAO will deny a request for reconsideration where the protester makes the same basic assertion that was made in the initial protest and does not show that government officials acted fraudulently or in bad faith in connection with the denial of a certificate of competency.
2. GAO will deny a request for a conference when the protest is not being considered on the merits, since a conference would serve no useful purpose.

Franklin Wire & Cable Company requests that we reconsider Franklin Wire & Cable Co., B-218557, et al., May 7, 1985, 85-1 CPD ¶ _____. We deny that request.

In our decision, we dismissed Franklin's protest against the contracting officer's determination of nonresponsibility and the Small Business Administration's (SBA) subsequent refusal to issue a certificate of competency (COC). Our Office generally does not review such matters unless the protester can show either that government officials may have acted fraudulently or in bad faith or that SBA failed to consider vital information bearing on the firm's responsibility. Franklin failed to make a showing on either ground.

In its request for reconsideration, Franklin makes the same basic assertion that it made in its initial protest, namely, that the contracting officer and his agency (the Defense Logistics Agency) acted in bad faith by knowingly, or negligently, providing SBA

with inaccurate information about Franklin, resulting in SBA's refusal to issue a COC. In effect, Franklin claims that we ignored this argument in our prior decision. The protester believes that in making this assertion, it has made the requisite showing for our Office to undertake an independent review of SBA's decision.

We do not agree. In our prior decision, we responded directly to Franklin's allegations of bad faith. First, we noted that although Franklin believed that DLA's bad faith was reflected in an attempt to convince SBA that Franklin was not a regular dealer under the Walsh-Healey Act, in fact, DLA had concluded on its own that Franklin met the requirements of a regular dealer and, as a result, had voluntarily withdrawn its request for a Walsh-Healey determination; thus, SBA rendered no decision on the Walsh-Healey matter when considering Franklin's responsibility. Second, we noted that SBA's denial of a COC was not based exclusively--if at all--on any information supplied by DLA, but rather on SBA's review of the firm's performance on prior government contracts and its financial capabilities. We held that Franklin appeared to be disagreeing with the conclusions that SBA had drawn, rather than with the facts on which those conclusions were based. We stated that such a disagreement does not show a reasonable possibility that Franklin was denied a COC due to possible fraud or bad faith or otherwise provide our Office with grounds on which to undertake an independent review of SBA's decision.

Since the protester has not presented any evidence to show that our prior decision was erroneous as to either law or fact, but has only reiterated its previous argument, we deny its request for reconsideration.

Franklin has also requested a conference; however, since the protest is not being considered on the merits, we believe that conference would serve no useful purpose. See Zimmerman Plumbing and Heating Co., Inc.--Reconsideration, B-211879.2, Aug. 8, 1983, 83-2 CPD ¶ 182.

for Seymour Egan
Harry R. Van Cleve
General Counsel