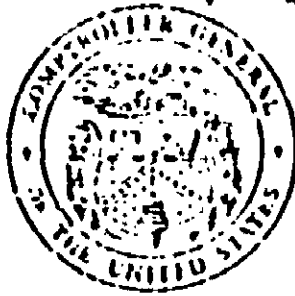


DECISION

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

Iannicelli;
118628

FILE: B-205610.2

DATE: June 8, 1982

MATTER OF: London Fog Company--Reconsideration

DIGEST:

Prior decision holding that protester had not carried burden of proving that specifications were overly restrictive and that contracting agency's technical experts' justifications therefor were unreasonable is affirmed. Request for reconsideration is essentially a restatement of arguments previously made in the original protest and not evidence of any factual or legal errors in the prior decision.

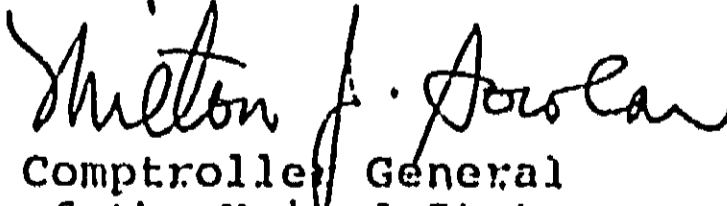
London Fog Company requests reconsideration of our decision in London Fog Company, B-205610, May 4, 1982, 82-1 CPD _____, in which we denied its protest. London Fog had protested that invitation for bids No. DLA700-82-B-0313, issued by the Defense Construction Supply Center for the procurement of insecticidal fog generators, overstated the agency's minimum needs and, therefore, was unduly restrictive of competition. The facts and legal arguments were set forth in detail in the earlier decision and, therefore, will not be repeated here.

In our previous decision on this matter, we held that the contracting agency, which is primarily responsible for determining its minimum needs, had made a prima facie showing that the protested specifications were reasonably related to its needs. Even though the protester had provided our Office with experts' opinions to support some of its argument, we held that the contracting agency's technical experts' justifications for the specifications had not been shown to be unreasonable and that London Fog had not carried its burden of affirmatively proving its case.

London Fog has restated the arguments it had made in the original protest which it contends have "conclusively shown" the agency's justifications for the specifications to be unreasonable. London Fog also emphasizes that if the protested specifications are allowed to stand, there are only two bidders which are likely to be found responsive and only one of those is a small business. In support of its argument that the specifications are unduly restrictive of competition, London Fog states that the Defense Logistics Agency changed the procurement from a 100-percent small business set-aside to a 50-percent set-aside to avoid a sole-source award to the only small business which could comply with the specifications.

London Fog's request for reconsideration is essentially a restatement of arguments previously made in the original protest and considered by our Office in the previous decision. London Fog has not provided any evidence of factual or legal errors in the decision which warrant reconsideration as required by section 21.9(a) of our Bid Protest Procedures, 4 C.F.R. part 21 (1981); Association of Soil and Foundation Engineers--Reconsideration, B-200999.2, May 11, 1981, 81-1 CPD 367. Concerning the argument that a 100-percent set-aside has been changed to a 50-percent set-aside to avoid sole sourcing this procurement, this argument provides no basis for sustaining the protest in view of our prior holding that the specifications are reasonably related to the agency's needs. In fact, if this allegation is true, it appears that the Defense Logistics Agency is attempting to maximize competition under the circumstances.

The prior decision is affirmed.

for 
Comptroller General
of the United States