



Comptroller General  
of the United States

Washington, D.C. 20548

Perry

## Decision

**Matter of:** Crest-Foam Corporation--Reconsideration

**File:** B-234628.4; B-239213.2

**Date:** September 21, 1990

Karen Hastie Williams, Esq., Paul Shnitzer, Esq., and Michael E. Cain, Esq., Crowell & Moring, for the protester. David B. Dempsey, Esq., and Janet Z. Barsity, Esq., Akin, Gump, Strauss, Hauer & Feld, for Foamex a division of New Belgium Company, an interested party. Anne B. Perry, Esq., Paul Lieberman, Esq., and John F. Mitchell, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

Request for reconsideration of decision is denied where the protester merely restates its initial arguments and expresses disagreement with the decision.

### DECISION

Crest-Foam Corporation requests reconsideration of our decisions in Crest-Foam Corp., B-234628.3, June 20, 1990, 90-1 CPD ¶ 572, and Crest-Foam Corp., B-239213, June 29, 1990, 90-1 CPD ¶ 599, denying its protests of the award of contracts to Foamex under request for proposals (RFP) No. FO4604-89-R-0165 and FO9603-90-R-62314, respectively, issued by the Department of the Air force for bulk fuel foam. The bulk foam supplied under these contracts will be provided by the Air Force to other contractors who will fabricate the foam into "kits" to be inserted in the fuel tanks of A-10A aircraft to suppress explosions.

In our decisions, we found that the agency reasonably determined that Foamex's product was technically acceptable since the agency subjected Foamex's bulk fuel foam to the tests specified in the solicitation and the test results demonstrated that the product satisfied the technical requirements.

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In its request for reconsideration, Crest-Foam disputes our conclusion that the bulk fuel foam offered by Foamex satisfied the solicitation requirements. Crest-Foam contends that both decisions rely on our erroneous conclusion that Crest-Foam did not dispute the fact that Foamex's product does not produce an incendiary ignition (sparks) or a charge buildup greater than that of MIL-B-83054 type I orange polyester when impinged with JP-4 fuel that does not contain antistatic additive. In support of its allegation that it did not make such a concession, Crest-Foam points to a statement in an attachment to its comments on a bid protest conference. This statement, by one of Crest-Foam's experts, notes that since the foam offered by Foamex under this solicitation produces sparks at -32 degrees Fahrenheit, and orange polyester foam never produced such sparks, Foamex was offering a more dangerous product.

Under our Bid Protest Regulations, a party requesting reconsideration must show that our prior decision contained either errors of fact or law, or that the protester has information not previously considered that warrants reversal or modification. 4 C.F.R. § 21.12(a) (1990). Repetition of arguments made during the original protest or mere disagreement with our decision does not meet this standard. Travel Centre--Recon., B-236061.3, Mar. 22, 1990, 90-1 CPD ¶ 316.

Crest-Foam's reconsideration request erroneously asserts that our decisions are premised on the protester's concession that Foamex's foam was an improvement over the orange polyester foam. Rather, our decisions are based on the fact that the record established that Foamex's product satisfied all of the requirements of the solicitation, including that it produce no more incendiary ignition than did the orange polyester foam. While we noted in our decision that Crest-Foam conceded this to be the case, we also examined the test results and charts supplied by all parties and concluded that the voltage generated by Foamex's product was less than that produced by the orange polyester. Specifically, the relevant comparative fuel impingement test results demonstrated by extrapolation, that at -32 degrees Fahrenheit the orange polyester foam generates in excess of 24,000 volts whereas Foamex's foam generated about 20,000 volts. This satisfies the RFP requirement that the new foam meet or exceed the orange polyester foam in this regard.

The RFP requirement that the new foam not generate more electrostatic activity than the orange polyester does not mean, as Crest-Foam urges, that at -32 degree Fahrenheit the foam produce no incendiary ignition. Rather, the requirement is that the new fuel foam, when tested by the

same standards which were applied to the orange polyester, perform as well. Since the standards do not include, and have never included, a requirement for testing at -32 degrees Fahrenheit, the orange foam has not been tested by the Air Force at that temperature, and the sparking generated by the Foamex product at that temperature does not affect the validity of the Air Force determination to qualify Foamex's product.

While Crest-Foam's argument in its request for reconsideration is couched in terms of the comparable incendiary ignition of the two products, it is, in fact, no more than a reiteration of Crest-Foam's original protest contention that Foamex's product should have been rejected since it produced incendiary ignition at -32 degrees Fahrenheit. As we pointed out in our earlier decision, the solicitations contained no such requirement, and there was no basis to conclude that the presence of sparks at -32 degrees Fahrenheit constituted an unacceptable safety hazard. Since Crest-Foam's request for reconsideration essentially reiterates its initial argument and expresses disagreement with the decisions, it provides no basis for us to reverse or modify our prior decisions.

The request for reconsideration is denied.



James F. Hinchman  
General Counsel