



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Commercial Energies, Inc.--Reconsideration

File: B-241031.3

Date: October 31, 1990

Gregory Kellam Scott, Esq., for the protester.
Joe W. Crutchfield, for Union Natural Gas Pipeline Company,
and C. David Falling, Falling Tree Enterprises, Inc.,
interested parties.
Paul E. Jordan, Esq., Paul Lieberman, Esq., and John F.
Mitchell, Esq., Office of the General Counsel, GAO, partici-
pated in the preparation of the decision.

DIGEST

Request for reconsideration is dismissed where the issue was considered and denied in an earlier protest involving the same parties.

DECISION

In a request for reconsideration, Commercial Energies, Inc. (CEI) protests that request for proposals (RFP) No. DLA600-90-R-0151, issued by the Defense Fuel Supply Center, Defense Logistics Agency (DLA), for the supply of natural gas, should have been set aside for small disadvantaged businesses (SDBs).^{1/}

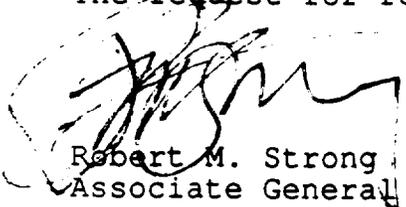
We dismiss the request for reconsideration without receiving an agency report. Bid Protest Regulations, 4 C.F.R. § 21.3(m) (1990).

At the time we opened this protest for development we had under consideration, but had not yet decided, a prior protest

^{1/} CEI previously filed protests (B-241031 and B-241031.2) which we interpreted as challenging the agency's selection of standard industrial classification codes, matters which are for review solely by the Small Business Administration. 15 U.S.C. § 637(b)(6) (1988). CEI's request for reconsideration makes plain that its protest concerns the decision whether to set the procurement aside for SDBs. Accordingly, we determined to develop the protest and request an agency report.

concerning RFP No. DLA600-90-R-0126, issued by DLA for the supply of natural gas. In Commercial Energies, Inc., B-240148, Oct. 19, 1990, 90-2 CPD ¶ , we decided that DLA properly did not set aside the procurement for SDBs where it had determined that there was no expectation of receiving offers from two or more SDBs which would be eligible for award as manufacturers/producers or regular dealers as required by the Walsh-Healey Act, which we held was applicable to this kind of procurement. CEI has raised the same issues in this protest and since it does not contend in its protest that it qualifies as a manufacturer/producer or regular dealer under the Walsh-Healey Act, no purpose would be served in reconsidering this issue here.^{2/}

The request for reconsideration is dismissed.



Robert M. Strong
Associate General Counsel

^{2/} CEI also requested a conference in this case, but in view of our decision, a conference would serve no useful purpose.