



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Maury Microwave Corporation--Reconsideration

**File:** B-242533.2

**Date:** February 27, 1991

Ronald A. Ramirez for the protester.  
Glenn G. Wolcott, 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 dismissal of protest is denied where protester fails to specify any factual or legal basis warranting reversal or modification of initial decision.

### DECISION

Maury Microwave Corporation (MMC) requests that we reconsider our January 7, 1991, dismissal of its protest against an award by the Department of the Army to T.A.K. Industries, under solicitation No. DAAH01-90-R-0153. MMC protested that the awardee does not qualify as a manufacturer under the provisions of the Walsh-Healey Act, 41 U.S.C. §§ 35-45 (1988). We dismissed MMC's protest because our Office does not determine the legal status of a firm as a regular dealer or manufacturer within the meaning of the Walsh-Healey Act. By law, this determination is to be made by the contracting agency, subject to review by the Small Business Administration when a small business is involved, and the Secretary of Labor. The Pratt & Whitney Co., Inc.; Onsrud Machine Corp., B-232190; B-232190.2, Dec. 13, 1988, 88-2 CPD ¶ 588.

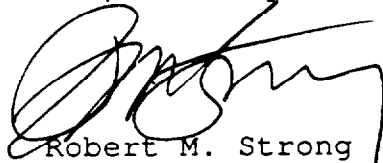
We deny the request for reconsideration.

MMC's request for reconsideration is merely a restatement of its earlier protest. While MMC now emphasizes that T.A.K. Industries should have been determined nonresponsible, its basis for that assertion continues to be that T.A.K. Industries is not a "manufacturer" under the Walsh-Healey Act. In any event, our Office does not review affirmative determinations of responsibility by a contracting officer, absent a showing that such determinations were made fraudulently or in bad faith or that definitive responsibility criteria in the

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solicitation were not met. 4 C.F.R. § 21.3(m)(5) (1990). MMC has not provided any evidence of bad faith or fraud, and qualification as a manufacturer under the Walsh-Healey Act does not constitute a definitive responsibility criterion. See Merrick Eng'g., Inc., B-238706.2, June 14, 1990, 90-1 CPD ¶ 564.

Because MMC's request for reconsideration merely reiterates its earlier argument and does not specify any factual or legal basis warranting reversal or modification of our initial decision, the request for reconsideration is denied.

A handwritten signature in black ink, appearing to read 'R. Strong', is written over the printed name.

Robert M. Strong  
Associate General Counsel