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

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The Honorable Harold C. Hollenbeck
House of Representatives

Dear Mr. Hollenbeck:

We refer to your letter to our Office, dated October 3, 1980, concerning the difficulties your constituent, Mr. Alan L. Berlin, vice president of Harris & Tipograph, Inc., has experienced regarding a new specification for artificial leather sweatbands issued by the Defense Personnel Support Center, Defense Logistics Agency, Philadelphia, Pennsylvania.

As we understand it, Mr. Berlin is unable at the present time to supply the artificial leather sweatbands because only Lydall, Inc., can produce the item according to the specifications and Lydall, Inc., has Brizel Leather Corp., Harris & Tipograph's competitor, as its sole distributor. In light of this, Mr. Berlin argues that the arrangement between Brizel Leather Corp. and Lydall, Inc., violates the antitrust laws. He also states that Harris & Tipograph may be forced to close if it is unable to bid on the Government's requirements for synthetic sweatbands.

We have held that violations of the antitrust laws relating to restraint of trade are matters properly for consideration by the Department of Justice and not our Office. See Security Assistance Forces & Equipment International, Inc., B-194838, February 6, 1980, 80-1 CPD 95. Therefore, any complaint Harris & Tipograph has in this regard should be referred to the Department of Justice for appropriate action.

As to the specification itself, it is well established that the determination of the minimum needs of a contracting agency and the methods of accommodating those needs are the responsibility of the agency itself. This is because we have recognized that Government procurement officials who are familiar with the conditions under which supplies, equipment, or services have been used in the past, and how they are to be used in the future, are generally in the best position to know the Government's actual needs and, therefore, are best able to draft appropriate specifications. Consequently, we will not question an agency's determination of what its minimum needs are unless there is a clear showing that the determination has no reasonable basis. See H.M. Sweeney Company, B-197302, June 12, 1980, 80-1 CPD 413. The fact that a potential bidder is unable to compete because of the terms of a specification does not establish that the specification does not represent the legitimate needs of the agency, id., and your constituent has provided no evidence that the agency's determination concerning the specification is unreasonable.

We trust that this information will be helpful to you in advising your constituent.

Sincerely yours,

Henry R. Van Cleave

For the Comptroller General
of the United States