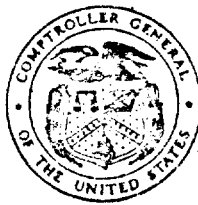


**DECISION**

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

26278

**FILE:** B-211475.4**DATE:** September 23, 1983**MATTER OF:** Cecile Industries, Inc.**DIGEST:**

Dismissal with prejudice of a complaint filed in court constitutes a final adjudication on the merits, barring further action by the General Accounting Office on a protest involving the same issue.

Cecile Industries, Inc. protests the rejection of its offer in response to request for proposals No. DLA100-83-R-0436, a small business set-aside, issued by the Defense Logistics Agency (DLA) for wet weather trousers. Cecile contends that the Small Business Administration (SBA) has the authority to determine whether a small business concern is responsible and therefore DLA should not have disqualified the firm from consideration for the contract upon initiating debarment proceedings until the SBA determined Cecile's responsibility. DLA subsequently debarred Cecile from Government contracting until November 1, 1985.

Prior to filing its protest with our Office, Cecile filed suit against the Federal Government in the United States Claims Court seeking injunctive and declaratory relief. Cecile Industries, Inc. v. United States, No. 357-83C. One of the grounds presented as the basis for the suit is the same issue as presented to this Office. By order of June 10, 1983, the court dissolved a temporary restraining order which had previously been entered in the case and dismissed Cecile's complaint with prejudice.

A dismissal with prejudice by a court constitutes a final adjudication on the merits of the matter and bars further action by this Office. Sea-Land Service, Inc.; B-208690.2, February 10, 1983, 83-1 CPD 148. The protest therefore is dismissed.

*Harry R. Van Cleve*  
Harry R. Van Cleve  
Acting General Counsel

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