

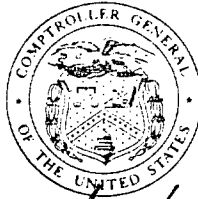
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DECISION



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

[Request for Reconsideration Following Court Adjudication]

FILE: B-196282.2

DATE: May 2, 1980

MATTER OF: National Office Moving
Company--Reconsideration

DIGEST:

Decision by United States District Court denying motion for preliminary injunction (PI) and dismissing action, after consolidating PI hearing with trial on the merits, constitutes final adjudication on merits. GAO will take no further action on request for reconsideration raising substantially same issues as those before Court.

Keahey Moving and Storage Company (Keahey) requests reconsideration of our decision in National Office Moving Company, B-196282, March 10, 1980, 80-1 CPD 185. In that case, we sustained National's protest regarding the Department of State's (State) award of a contract to Keahey. We held that the contracting officer improperly allowed Keahey to correct its "apparent clerical mistake," and recommended that the contract awarded to Keahey be terminated for the convenience of the Government.

Subsequent to filing its request for reconsideration, Keahey filed a complaint for declaratory and injunctive relief in the United States District Court for the District of Columbia, Keahey Moving & Storage Co., Inc. v. Cyrus Vance, et al., Civil Action No. 77-2128. The complaint raised substantially the same issues as those presented to this Office by Keahey in its request for reconsideration. Keahey sought to enjoin State from terminating its contract as our decision had recommended.

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Upon agreement of counsel, Keahey's hearing on its motion for a preliminary injunction was consolidated with a trial on the merits. The court denied Keahey's request for a preliminary injunction and dismissed the action.

Federal Rules of Civil Procedure 41(b) provides generally that a dismissal operates as an adjudication on the merits. See Informatics, Inc.--Reconsideration, B-194734, November 6, 1979, 79-2 CPD 328. Consequently, it is our view that the decision of the court in this matter constitutes a final adjudication on the merits barring further action by this Office. See 4 C.F.R. § 20.10 (1980); Inflated Products Company, Inc.--Reconsideration, B-189115, July 19, 1978, 78-2 CPD 47; Perth Amboy Drydock Company, B-184379, November 14, 1975, 75-2 CPD 307.

The request for reconsideration is dismissed.

Larry R. Van Cleave

for Milton J. Socolar
General Counsel