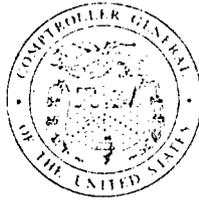


DECISION



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

60638
98486

FILE: B-181440, B-182152, B-184335 DATE: March 15, 1976

MATTER OF: Computer Machining Technology Corporation

DIGEST:

Reconsideration of decision dismissing protest because identical issues are pending before court of competent jurisdiction is denied because protester by filing notice of appeal from District Court order dismissing its complaint without prejudice to seek a GAO decision indicated its wish to continue seeking a final adjudication of the merits by the courts.

Computer Machining Technology Corporation (CMT) requests reconsideration of our decision (B-181440, B-182152, B-184335) dated February 9, 1976, wherein we dismissed its three related protests pursuant to section 20.10 of GAO's Bid Protest Procedures, 4 C.F.R. 20.10 (1975), because the issues raised by CMT in its protests were identical to those which were the subject of a complaint filed by that firm in the District Court for the District of Columbia, which complaint was dismissed by that court. CMT has pending before the Court of Appeals an appeal of the District Court's dismissal of this complaint.

CMT insists that these protests are for our consideration since the order of the District Court provided in part that:

"* * * the complaint is dismissed without prejudice to seek relief through the General Accounting Office and/or the Court of Claims."

It is CMT's position that by this order, the court clearly expressed its interest in our decision on these matters and that under that portion of section 20.10 of our Bid Protest Procedures, supra, which provides, in essence, that GAO will accept jurisdiction of a matter which is also pending before a court of competent jurisdiction when that court "requests, expects, or otherwise expresses interest in the Comptroller General's decision" the matter should be considered by this Office. CMT also argues that the District Court order is not final and therefore, cannot bind GAO.

B-181440
B-182152
B-184335

We believe our prior decision was correct in holding that CMT, through its pleadings before the District Court sought a final adjudication of this matter by the court. The only mention of this Office occurred in the District Court's order dismissing CMT's complaint. Now CMT seeks to cite the very order which it has appealed as erroneous to the Court of Appeals as the basis for its argument that our Office should consider these matters. We cannot accept such a position because it is our view that whatever effect the District Court's order (whether or not a final order) may have had on our determination whether to consider these protests was negated by CMT's action in appealing that order. CMT has thus indicated that it chooses, at least for the present, to pursue a final adjudication of the merits of these matters by the courts. Accordingly, as matters now stand the protests are not for our consideration.

Accordingly, our prior decision is affirmed.


Deputy Comptroller General
of the United States