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**DECISION**



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

*10,945*

**FILE:** B-195271

**DATE:** August 6, 1979

**MATTER OF:** Saddleback Mountain Radiologic Medical  
Group

*PLC 02523*

**DIGEST:**

1. Where court has denied preliminary injunction and issues raised in protest are still pending before court of competent jurisdiction, in connection with request for permanent relief, GAO will not consider matter.
2. Even if case is dismissed by court without prejudice GAO will not consider protest since it was filed untimely.

Saddleback Mountain Radiologic Medical Group protests the award of a contract by the Department of the Air Force to March Radiology Medical Corporation under invitation for bids No. F0460579-B-0028. The procurement is for professional radiological services at March Air Force Base, California.

*PLC 00603  
PLC 02524*

*AGC 00119*

Saddleback contends that its firm had clearly demonstrated its responsibility and should have been awarded the contract as the lowest responsive and responsible bidder. Saddleback also filed for judicial relief in the United States District Court for the Central District of California. A hearing regarding a request for a preliminary injunction was held on July 16, 1979. We have been informed by Saddleback that the request was denied. The issues raised by Saddleback's protest are still before the Court, where permanent relief is being sought.

We have held that a ruling on a preliminary injunction is not of itself a final adjudication on the merits. Optimum Systems, Inc., B-187560, August 31, 1977, 77-2 CPD 165.

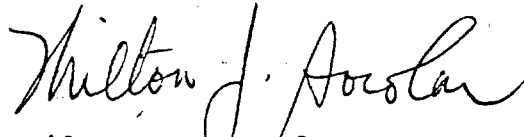
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[Protest Involving Issues Before a Court of  
Competent Jurisdiction]

It is the policy of our Office, however, not to decide matters where the issues involved are before a court of competent jurisdiction unless the court expects, requests or expresses an interest in receiving our decision. The George Sollitt Construction Company, B-190743, January 9, 1978, 78-1 CPD 17. In the present case, the Court has not expressed such an interest.

We point out however that if a case pending in court is dismissed without prejudice and the protest has been filed in a timely manner with our Office, ~~we will consider the merits of the protest.~~ <sup>Optimum</sup> ~~will then be considered.~~ Systems, Inc., supra. However, in the present case, Saddleback's protest was filed untimely since it was received in our Office more than 10 days after the agency's denial of the protest, 4 C.F.R. § 20.2(a) (1978).

Therefore, the protest is dismissed.



Milton J. Socolar  
General Counsel