

**DECISION**



11869 *Roberts Proc. T.*  
**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

FILE: B-195899

DATE: October 30, 1979

MATTER OF: Afro-American Services, Inc.

**DIGEST:**

*[Protest concerning]*  
Protest will not be considered where material issues were before court of competent jurisdiction which dismissed case with prejudice.

Afro-American Services, Inc. protests the award of a contract to JETS, Inc. for food services at the U.S. Merchant Marine Academy. The contract resulted from solicitation No. MA-80-SAC-0001 issued by the Department of Commerce. *DLG000067 AGC000141*

Afro-American filed suit against the Department of Commerce in the United States District Court for the District of Columbia, Civil Action No. 79-2440. The grounds presented as bases for the court suit included those presented to this Office in support of the protest. After consideration of written and oral arguments, which included a discussion of issues raised in the GAO protest, the Court denied a motion for preliminary injunction and dismissed Afro-American's action with prejudice. *AGC000074 AGC000748*

A dismissal with prejudice by a court operates as a final adjudication on the merits. It is the policy of our Office not to decide a protest where the material issues have been the subject of judicial decision. 4 C.F.R. § 20.10 (1979); Computer Products Unlimited, Inc., B-192736, January 23, 1979, 79-1 CPD 44.

The protest is dismissed.

*Milton J. Socolar*  
Milton J. Socolar  
General Counsel

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