

DECISION



11934 PLF
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-195516

DATE: November 5, 1979

MATTER OF: Charles N. White Construction Co., Inc.

DIGEST:

[Protest of DOL Contract Award]

Court's dismissal with prejudice of case presenting same issues as protest precludes GAO consideration of protest, since dismissal with prejudice constitutes final adjudication on merits.

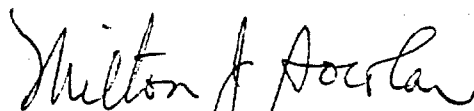
On August 7, 1979, Charles N. White Construction Co., Inc. (White), protested to our Office the award of a contract to T.H. Taylor, Inc. (Taylor), under invitation for bids (IFB) No. ONP-79-29-JC issued by the Department of Labor. DLG03263
AGL00009

On August 15, 1979, White filed an action in the United States District Court for the Northern District of Mississippi, Charles N. White Construction Co., Inc. v. Department of Labor, an Agency of the United States of America and T.H. Taylor, Inc., an Alabama Corporation, Civil Action No. WC79-108-5-0, seeking a Temporary Restraining Order (TRO) prohibiting further work on the contract until we resolved White's protest. The Court decided that the TRO would not issue but that on August 27, 1979, an evidentiary hearing would instead be held on White's motion for a Preliminary Injunction. Following the evidentiary hearing, on August 31, 1979, the Court dismissed White's action with prejudice. DLG03267

We are precluded from considering White's protest which presents the same issues as its court action, since the Court's dismissal with prejudice constituted a final adjudication on the merits. Computer Products Unlimited, Inc., B-192736, January 23, 1979, 79-1 CPD 44.

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The protest is dismissed.

A handwritten signature in cursive script, reading "Milton J. Socolar". The signature is written in dark ink and is positioned above the printed name and title.

Milton J. Socolar
General Counsel