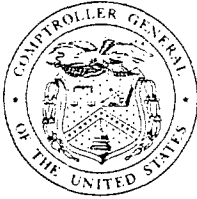


Carter  
PK-1  
45



**DECISION**

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

8919

FILE: B-192736

DATE: January 23, 1979

MATTER OF: Computer Products Unlimited, Inc. 726

**DIGEST:**

Protest will not be considered where material issues were before court of competent jurisdiction which dismissed case with prejudice. [Dismissal with prejudice operates as final adjudication on merits]

726

On August 25, 1978, Computer Products Unlimited, Inc. (CPU), protested to our Office the award of a contract to the Burroughs Corporation under request for proposals (RFP) No. 5937 for the furnishing of computer terminals to the United States Geological Survey. On October 4, 1978, CPU filed an action in the United States District Court for the District of Columbia, Computer Products Unlimited, Inc. v. Andrus, et al., Civil Action No. 78-1852, seeking injunctive relief and a declaratory judgment based on the same circumstances presented in its complaint to our Office. On December 27, 1978, the court dismissed CPU's action with prejudice.

AGC 748  
AGC 215

A dismissal with prejudice by a district court operates as a final adjudication on the merits. Military Base Management of New Jersey, Incorporated, B-178872, January 22, 1974, 74-1 CPD 22. We do not consider protests where the material issues have been the subject of judicial decision. 4 C.F.R. § 20.10 (1978); City and County of San Francisco, B-188130, March 30, 1978, 78-1 CPD 246; Juno Construction Corporation, et al., B-191344, September 18, 1978, 78-2 CPD 204.

The protest is dismissed.

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

*PK*

~~003298~~