DIGEST -

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

Released subject card

B-188426

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May 25, 1978

The Honorable John Lewis Smith
United States District Judge
United States District Court
For the District of Columbia

Dear Judge Smith:

We are in receipt of your order dated May 18, 1978, in Civil Action No. 77-0329. You request that we inform you whether we view our decision in Union Carbide Corporation, B-188426, September 20, 1977, 77-2 CPD 204, as a final decision on Union Carbide Corporation's (UCC's) protest against the award by the United States Air Force of requirements contract No. F41608-77-D-0013 to Air Products and Chemicals, Inc.

We issued our September 20 decision at the court's request, and, in order to provide the court with the benefit of our views (see section 20.10 of our Bid Protest Procedures, 4 C.F.R. part 20 (1977) (Procedures)) we discussed the merits of issues untimely raised under our Procedures, as well as timely issues. 4 CFR

As the order notes, UCC has filed a request that we reconsider our decision in accordance with section 20.9 of our Procedures. Under that section, there is no limit to the number of times an interested party can request reconsideration of a decision, as long as the time limit set out in the section is met, with the possibility of substantial delay in the ultimate resolution of a matter. To that extent, the concept of a "final" decision as we understand its use in the judicial process does not apply to our consideration of bid protests. Moreover, in view of the substantial burden on the party requesting reconsideration to demonstrate that modification or reversal is warranted on the basis of errors of law made or information not previously considered, our records reflect that almost all of our decisions are affirmed on reconsideration. 4 CFR

Prior to issuing the decision we comprehensively reviewed the material submitted by the interested parties on all the issues, whether or not timely raised. When issued we regarded it as a final decision on the matter. It was not in any way intended to be interim or temporary.

Sincerely yours,

R.F. Keller (Signed)

Deputy Comptroller General
of the United States

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