

DOCUMENT RESUME

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[Prompt Payment Discount]. B-189238. June 30, 1977. 3 pp.

Decision re: Walcott-Taylor Co.; by Robert F. Keller, Deputy Comptroller General.

Issue Area: Federal Procurement of Goods and Services:
Reasonableness of Prices Under Negotiated Contracts and Subcontracts (1904).

Contact: Office of the General Counsel: Transportation Law.

Budget Function: General Government: Other General Government (806).

Organization Concerned: General Services Administration.

Authority: 44 Comp. Gen. 774. 44 Comp. Gen. 776. 12 Comp. Gen. 480. Army Regulation 37-107.

The protester objected to the interpretation by several Government agencies of the prompt payment discount provisions in some Federal Supply Schedule Contracts between the company and the General Services Administration. A prompt payment discount in a contract priced on an f.o.b. origin basis does not apply to prepaid transportation charges stated separately on the seller's invoice unless otherwise specifically provided in the contract.
(Author/SC)

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Transp.

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DECISION



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

FILE: B-189238

DATE: June 30, 1977

MATTER OF: Walcott-Taylor Company

DIGEST: Prompt payment discount in contract priced on f.o.b. origin basis does not apply to prepaid transportation charges stated separately on seller's invoice unless otherwise specifically provided in contract.

Walcott-Taylor Company (Walcott) protests the interpretation by several Government agencies of the prompt payment discount provisions in some Federal Supply Schedule Contracts between the company and the General Services Administration (GSA). The agencies are applying the discount to the separately stated prepaid transportation charges shown on Walcott's invoices as well as to the price of the supplies.

Walcott furnishes office equipment and filing supplies to the Government under a variety of GSA Federal Supply Schedule Contracts. A typical solicitation requires bidder to " * * * Enclose pricelists, marked in accordance with Special Provisions, and indicate on attached 'Discount Schedule and Marketing Data' sheets the discounts and terms offered." (Our emphasis) Each "Discount Schedule and Marketing Data" sheet for the items bid indicates that the price of the item is offered f.o.b. origin and that the prompt payment discount is "1/2% 20 days." It is clear then that the "terms offered" are an f.o.b. origin price from which the Government can take a 1/2% discount if paid within 20 days. The "terms offered" do not specify that the discount would apply to prepaid transportation charges separately stated on the offeror's invoices.

When offers are submitted on an f.o.b. origin basis, the solicitation provides that "Prices are requested F.O.B. Shipping points and shall cover free delivery to any point within the same commercial zone * * * as the F.O.B. Point(s) named in the contract." Even though Walcott prepays the transportation charges beyond the shipping point named in the contract (usually the origin of the shipment), those prepaid charges simply are passed through to and remain the responsibility of the buyer and clearly are not part of the contract price, the price to which the prompt payment discount applies.

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We note that the contract requires Walcott to furnish copies of catalogs and price lists which are incorporated by reference into the contract. See 44 Comp. Gen. 774, 776 (1965). These catalogs state the prompt payment discount in these terms: "Prompt Payment Terms: 1/2% - 20 Days Merchandise Only."

We also note that many Government orders for supplies or services under these contracts contain a provision reading substantially like this:

"Material will be delivered f.o.b. supplier's plant * * *, with shipment to be made to destination specified herein at supplier's expense subject to reimbursement.

"The transportation cost is to be shown on the same invoice as supplies are billed but as separate item."

This language is inconsistent with any intention that the prompt payment discount applies on the separately stated prepaid transportation charges.

In taking the prompt payment discount on the prepaid transportation charges stated separately on Walcott's invoices, some agencies rely on our decision in 12 Comp. Gen. 480 (1932). That decision involved the question whether a tax imposed on the seller of gasoline and passed on to the Government and separately stated on the seller's invoice under provisions of the contract was subject to a prompt payment discount. We held among other things that under the contract provisions the amount of the tax was added to and became part of the purchase price and thus was subject to the prompt payment discount.

The decision is inapposite here because under the contract the transportation charges clearly are not part of the purchase price.

Components of the Department of the Army rely on Army Regulation 37-107 which states in pertinent part:

"(b) When a prompt payment discount is offered, the discount will be applied to the gross amount of the contract, including transportation charges and applicable taxes, unless otherwise specified.
* * *." (Our emphasis)

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Components of the Department of the Navy rely on a similarly worded Navy regulation:

"a. General. Discount will be computed on the total amount of the dealer's bill approved for settlement, including such items as taxes and freight, whether included in the contract price or shown as separate items on a dealer's bill unless otherwise specifically stated in the contract or order. * * *" (Our emphasis)

The quoted provisions of these regulations do not apply because Walcott's supply contracts priced on an f.o.b. origin basis restrict the prompt payment discount to the contract price.

We will advise the Departments of the Army and the Navy to clarify their regulations to make it clear that unless otherwise specifically stated in the contract, a prompt payment discount offered in a contract priced on an f.o.b. origin basis will apply only to the price of the merchandise.


Deputy Comptroller General
of the United States