

DOCUMENT RESUME

03865 - [A2733961]

[Request for Remission of Liquidated Damages Assessed by Contracting Agency]. B-190059. September 27, 1977. 1 pp.

Decision re: J. K. Prince & Sons; by Robert F. Keller, Acting Comptroller General.

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law I.

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

Organization Concerned: Department of the Navy: Naval Facilities Engineering Command, Alexandria, VA; Marine Corps: Logistics Support Base, Atlantic.

Authority: 10 U.S.C. 2312. B-187910 (1977). B-188087 (1977).

A contractor requested relief from an assessment of liquidated damages. The request for remission of the liquidated damages assessed by the contracting agency was denied since the agency's decision not to recommend remission precluded GAO from remitting all or part of such damages. (Author/SC)

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DECISION

J. Lowell
Per I
**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548**

FILE: B-190059

DATE: September 27, 1977

MATTER OF: J. K. Prince & Sons

DIGEST:

Request for remission of liquidated damages assessed by contracting agency is denied since agency's decision not to recommend remission precludes GAO under 10 U.S.C. § 2312 (1970) from remitting all or part of such damages.

The Department of the Navy, Naval Facilities Engineering Command, Alexandria, Virginia (Navy), has forwarded to our Office a request by J. K. Prince & Sons (Prince) for relief from an assessment of liquidated damages in the amount of \$1,008, by the Marine Corps Logistics Support Base, Atlantic, Albany, Georgia, under contract No. N62467-76-C-3231.

We have been advised that the Navy has decided not to recommend remission of liquidated damages under the subject contract. Under 10 U.S.C. § 2312 (1970) our Office is authorized to remit liquidated damages in whole or in part upon the recommendation of the head of the contracting agency. In regard to the instant request for relief it has consistently been our position that the cited statute clearly contemplates that a favorable recommendation by the head of the agency concerned is a prerequisite to any remission action by our Office. See Chameleon Engineering Corporation, B-187910, March 23, 1977, 77-1 CPD 205; Balboa Insurance Company, B-188087, January 21, 1977, 77-1 CPD 44.

Consequently, we are unable to grant Prince remission of all or any part of the liquidated damages assessed.

R. F. Keenan
Acting Comptroller General
of the United States