

DECISION



11152
**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-203315

DATE: May 29, 1981

MATTER OF: Jordan & Nobles

DIGEST:

Request for remission of liquidated damages assessed by Department of the Army (Army) is denied since Army's refusal to recommend remission precludes GAO under 10 U.S.C. § 2312 from remitting all or part of such damages.

Jordan & Nobles (J&N) has requested that our Office remit \$10,400 in liquidated damages assessed by the Department of the Army (Army) under contract No. DACA63-78-C-0064, awarded by the Army Corps of Engineers, Fort Worth District, Texas. The liquidated damages were imposed on J&N for failure to complete its contract in the required number of days.

In its report dated January 29, 1981, the Army recommended denial of J&N's request for remission of liquidated damages. The authority of this Office to remit liquidated damages rests solely upon 10 U.S.C. § 2312 (1976), which provides that upon the recommendation of the head of an agency, the Comptroller General may remit all or part, as he considers just and equitable, of any liquidated damages assessed for delay in performing a contract made by the agency. As the statute makes apparent, and as we have consistently held, an agency's favorable recommendation for remission is a prerequisite to any action by this Office. Turner-Pilkinton Construction Co., Inc., B-191646, July 7, 1978, 78-2 CPD 22.

Therefore, we must decline to grant the relief requested.

Milton J. Jordan

Acting Comptroller General
of the United States

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