

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548****FILE:** B-217644**DATE:** October 31, 1985**MATTER OF:** Prompt Payment Discounts When Payment is
Due on Local Holidays

DIGEST: When Federal government offices are closed because of a legal holiday and government business is not expected to be conducted, payments falling due on the legal holiday may be made the following day, including payments that are decreased by prompt payment discounts. Where government offices are open, on Inauguration Day or local holidays, payments must be made on the holiday if due.

The Government Printing Office (GPO) asks whether it is legally entitled to a prompt payment discount if the last day of the payment period falls on a local public holiday and payment is made on the following day. Specifically the GPO mentions Inauguration Day, which in 1985 was observed on Monday, January 21, but only in the District of Columbia and surrounding jurisdictions. For the reasons given below, we conclude that, except as otherwise provided by contract, when a local holiday is authorized by law, government agencies which are closed for that holiday are entitled to prompt payment discounts if they pay on the next business day following the holiday.

It is a well-established rule of Federal contract law that when an act is to be performed within a certain number of days and the last day falls on a Sunday or a legal holiday, performance on the following day is proper. Street v. United States, 133 U.S. 299, 306 (1889); 20 Comp. Gen. 310, 311 (1940); 18 Comp. Gen. 812, 814 (1939). The rule is based primarily on the ground of impossibility, either practical or legal, Sundays and legal holidays being days on which business generally is not conducted. A-98462, Apr. 26, 1943. More particularly, we have held that when a government contract provides a discount for payment within a certain number of days and the last day of the discount period falls on Sunday, the Government is entitled to the discount if payment is made on the following business day. 20 Comp. Gen. 310, 311 (1940). Consistent with the general rule, we think the same conclusion would apply to legal holidays. See 18 Comp. Gen. 812, 814 (1939).

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Whether these principles apply to Inauguration Day and other local holidays that are authorized by law depends on whether it is expected that the usual government functions will be performed. When Federal government offices are closed and government business is not expected to be conducted, payments falling due on such days may be made on the following day; however, when the contrary is true, payments must be made on the day of the holiday.

Although Federal law designates Inauguration Day as a legal holiday only for limited purposes, 5 U.S.C. § 6103,^{1/} the District of Columbia describes it as a holiday for all purposes. D.C. Code Ann. § 28-2701 (Supp. 1984). Moreover, both Federal and District laws provide that when Inauguration Day falls on Sunday, it will be observed on the succeeding Monday. What this means in practical terms is that in the District of Columbia and some adjacent suburbs, Federal government offices are closed on Inauguration Day. Accordingly, except as otherwise provided by contract, contractual payments that were to be made by Federal government offices that were closed on Inauguration Day could have been made on the next business day. As the GPO has told us that its payments normally are made from offices in the District of Columbia and its offices were closed on Inauguration Day, contractual payments which included the benefit of prompt payment discounts could have been made on the succeeding day. In those parts of the country where Federal government business was expected to proceed as usual, contractual payments that fell due on Inauguration Day should have been made on that day.

As far as we know, the problem raised by the GPO has not been recurring. Nevertheless, if it persists, to avoid ambiguity we would suggest that agencies include a provision in their contracts consistent with our views herein.

for *Shelton J. Rowland*
Comptroller General
of the United States

^{1/} Section 6103 describes it as a holiday only "for the purpose of statutes relating to pay and leave of employees. * * *"