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The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: J. Murray Company, Inc.
File: B-236673
Date: January 16, 1990

DIGEST

Request for remission of liquidated damages assessed by Department of the Army is denied in the absence of a favorable recommendation by the head of the agency.

DECISION

The U.S. Army Corps of Engineers has referred to this Office a request by J. Murray Company, Inc. for remission of liquidated damages assessed by the Corps under contract No. DACW59-87-C-0048. The contract was for three sets of miter gates for a lock chamber. The Army reports that, despite an extension of the original delivery date by 20 calendar days, J. Murray Company failed to complete delivery until 195 days after the revised delivery date. The Army recommends that the request for remission of liquidated damages be denied.

Under 10 U.S.C. § 2312 (1982), 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 an agency. A favorable recommendation by the head of the contracting agency, however, is a prerequisite to any remission action by this Office. Allis-Chalmers Co., B-215812, July 26, 1984, 84-2 CPD ¶ 119. Because the Army recommends denial, we decline to grant the relief requested.

for *Milton J. Jordan*
Comptroller General
of the United States

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