

Transp.  
D. Billard



**DECISION**

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

8818

FILE: B-193071

DATE: January 10, 1979

MATTER OF: National Reporting Company

**DIGEST:**

1. By inference, paragraph 9 of Solicitation Instructions and Conditions, SF 33-A, attached to formally advertised supply and service contract, requires consideration of prompt payment discount offering 20-day time period in evaluation of bids for award.
2. Issue of propriety of applying prompt payment discount provision in evaluation of bids, in light of alleged tardy Government payment history, untimely when raised after bid opening.

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DLG00864

National Reporting Company (National) protests an award to Acme Reporting Company (Acme), as low bidder under solicitation No. 78-1184, issued by the Civil Aeronautics Board for reporting services. The bids were opened on September 27, 1978. Protest was filed in this Office on October 3, 1978.

National contends that on the basis of the bid prices submitted, it was low bidder, and that the agency erred in reducing the amount of Acme's bid price below that of National's by subtracting the prompt payment discount offered by Acme from Acme's submitted bid. *as a BASIS of AWARD* *Competitor's Bid*

Alternatively, the protester argues that paragraph 9 of SF 33-A prohibits consideration of a prompt payment discount in determining the lowest bid, and that if the discount provision does require such consideration, it should not be applied in the face of the Government's alleged tardy payment history.

Block 9 of the basic bid form, SF 33, reads, in pertinent part, as follows:

"All offers are subject to the following:

1. The Solicitation Instructions and Conditions, SF 33-A. \_\_\_\_\_"

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Block 16, as submitted by Acme, appears as follows:

"DISCOUNT FOR PROMPT PAYMENT (See par. 9, SF 33-A)

       % 10 CALENDAR DAYS:   20%   20 CALENDAR DAYS:        %  
       30 CALENDAR DAYS:        % CALENDAR DAYS"

Paragraph 9(a) of SF 33-A provides:

"9. DISCOUNTS.

(a) Notwithstanding the fact that a blank is provided for a ten (10) day discount, prompt payment discounts offered for payment within less than twenty (20) calendar days will not be considered in evaluating offers for award, unless otherwise specified in the solicitation. However, offered discounts of less than 20 days will be taken if payment is made within the discount period, even though not considered in the evaluation of offers."

Since the solicitation does provide for the insertion of a prompt payment discount, it is evident that the meaning of paragraph 9 of SF 33-A must be considered. What paragraph 9 prohibits is the evaluation of prompt payment discounts for time periods of less than 20 days, unless otherwise specified. Federal Procurement Regulations Section 1-2.407-3(c) prohibits evaluation of prompt payment discounts for time periods less than those specified in the invitation for bids. See 52 Comp. Gen. 614 (1973). By inference paragraph 9 requires that prompt payment discounts for periods of 20 days or longer are to be considered unless the invitation specifically provides otherwise. See Afro-American Datanamics, Inc., B-190703, December 8, 1977; 77-2 CPD 448; B-175140, June 1, 1972; B-165128, October 28, 1968; see, also, B-162378, December 21, 1967.

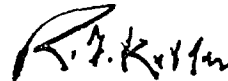
Acme offered a 20 percent discount for a 20-day time period. As a result, the agency was required by the solicitation to consider the discount in the evaluation of its bid.

As to the alleged impropriety of the discount provision in the light of the asserted tardy prior payment record of the Government, the allegation is untimely, having been filed after

bid opening. See Prime Manufacturing Corporation, B-189232, August 16, 1977, 77-2 CPD 122.

The Abstract of Bids and Awards shows that the protester's bid, in the absence of any offered discount, is \$69,130, whereas Acme's bid price of \$79,684, reduced by 20 percent, resulted in a low bid of \$63,747.20.

Protest denied.



Deputy Comptroller General  
of the United States