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

13645

April 30, 1980

B-197811

Mr. Gary Appelquist
President
Master Craft Fence Company, Inc. DL904582
Route 3, Mt. Joy
Davenport, Iowa 52804

Dear Mr. Appelquist:

Enclosed is a copy of our finding of today that Master Craft Fence Company, Inc., and Gary Appelquist, individually, have disregarded obligations to employees within the meaning of the Davis-Bacon Act, 40 U.S.C. § 276a (1976), in the performance of a subcontract under contract No. DACW43-73-C-0042 for construction work at the Clarence Cannon Dam and Reservoir on the Salt River in Monroe County, Missouri.

Pursuant to the provisions of section 3(a) of the Act, the names of the above individual and corporation shall be included on our next published debarred bidders list, and no Government contract will be awarded to either of them or to any firm, corporation, partnership, joint venture or association, in which they or either of them may have an interest until 3 years have elapsed from that date.

Sincerely yours,

Milton J. Fowler

For the Comptroller General
of the United States

Enclosure

Letter

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Finding

In the matter of Master Craft Fence Company, Inc., and Gary Appelquist, President of said firm, Route 3, Mt. Joy, Davenport, Iowa 52804.

Section 1(a) of the Davis-Bacon Act of August 30, 1935, 49 Stat. 1011, 40 U.S.C. § 276a (1976), provides in part that--

"The advertised specifications for every contract in excess of \$2,000, to which the United States * * * is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works of the United States * * * and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics * * * and every contract based upon these specifications shall contain a stipulation that the contractor or his subcontractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics, * * *."

Section 3(a) of the act provides that--

"* * * the Comptroller General of the United States is further authorized and is directed to distribute a list to all departments of the Government giving the names of

persons or firms whom he has found to have disregarded their obligations to employees and subcontractors. No contract shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership, or association in which such persons or firms have an interest until three years have elapsed from the date of publication of the list containing the names of such persons or firms."

Contract No. DACW43-73-C-0042 in excess of \$2,000 for construction work at the Clarence Cannon Dam and Reservoir on the Salt River in Monroe County, Missouri, was awarded by the Department of the Army to Jack Simpson Contractor, Inc., Paris, Missouri. The contract contained the stipulations and representations required by section 1 of the Davis-Bacon Act.

A subcontract in excess of \$2,000 was awarded to Master Craft Fence Company, Inc., on September 27, 1976, for the construction of a fence along a railroad right-of-way. The subcontract also contained the stipulations and representations required by section 1 of the Davis-Bacon Act.

An investigation was conducted by the United States Army as the result of a routine labor standards interview which indicated noncompliance with the labor standards provisions of the contract. This investigation disclosed that the subcontractor, Master Craft Fence Company, Inc., having full knowledge of its statutory and contractual responsibilities, did nevertheless disregard these obligations as evidenced by the deliberate payment of subminimum wage rates to persons employed by it on subject project. As a result of this investigation it was determined that 11 employees had been underpaid a total of \$6,952.38 in violation of the Davis-Bacon Act and the Contract Work Hours and Safety Standards Act. According to the record restitution has been made to all of the employees except for one who could not be located. The record also revealed that certified payrolls submitted to the contracting agency contained incorrect information designed to simulate compliance with the applicable labor standards requirements.

By certified letter dated September 14, 1979, the Deputy Administrator, Wage and Hour Division, United States Department of Labor, advised the subcontractor of the nature and extent of the labor standards violations and afforded it an opportunity to rebut the charges. Although the registered mail receipt indicated that the letter was received, the subcontractor failed to respond to the letter.

It is clear, particularly in light of the falsified payrolls, that good faith was not shown in complying with the Davis-Bacon Act. Both the Department of the Army and the Department of Labor have recommended imposition of debarment.

We, therefore, find that Master Craft Fence Company, Inc., and Gary Appelquist, individually, have disregarded "obligations to employees" within the meaning of the Davis-Bacon Act. Accordingly, these names will be included on a list for distribution to all agencies of the Government pursuant to the statutory requirements and no contract shall be awarded to them or to any firm, corporation, partnership, joint venture or association, in which they or either of them have an interest until 3 years have elapsed from the date of publication of such list.



For the Comptroller General
of the United States