

**DECISION**



13658

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

**FILE:** B-196703

**DATE** May 6, 1980

**MATTER OF:** Ruel W. Bodily and B & H Contractors

**DIGEST:**

Parties, who allegedly have conducted themselves as if debarred due to understanding that decision by Administrator, Wage and Hour Division, Department of Labor, recommending that Comptroller General debar parties under Davis-Bacon Act was debarment, cannot have debarment term reduced by time between Administrator's decision and debarment by Comptroller General, since Administrator's decision only made recommendation, Comptroller General has exclusive debarment authority, debarment begins when names are published in debarred bidders list, and there is no authority to remove names from list before expiration of 3-year statutory debarment period.

*[Protest Against]*

Counsel for Ruel W. Bodily and B & H Contractors requests that the recent debarment of his clients for violation of the Davis-Bacon Act, 40 U.S.C. § 276a (1976), be changed to show a commencement date of July 6, 1978.

The basis for the request is that the clients assumed when they did not appeal the July 6, 1978, decision of the Administrator of the Wage and Hour Division, Department of Labor, regarding their violations, that they were debarred commencing July 6, 1978, and have conducted themselves since that time as if they were debarred. Therefore, they do not believe that they should be debarred for the additional 21 months that results from the later debarment by our Office.

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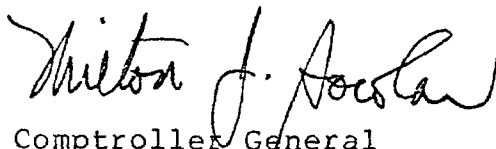
While it is unfortunate that the clients may have understood the Administrator's decision of July 6, 1978, to be a debarment as of that date, it is clear from the decision that it is not a debarment. The decision states:

"Accordingly, I am recommending to the Comptroller General that B & H Contractors and Ruel W. Bodily and Norman Hagen, as individuals and partners, or any firm, corporation, partnership, or association in which they have a substantial interest, be barred from doing business with the Government as a contractor for three years from the date of publication of the list containing those names due to their disregard of their obligations to employees within the meaning of Section 3(a) of the Davis-Bacon Act." (Emphasis added.)

Thus, the Administrator only made a "recommendation" to the Comptroller General who is vested exclusively with the debarment authority under section 3(a) of the Davis-Bacon Act, 40 U.S.C. § 276a-2(a) (1976). Mashburn Electric Company, Inc., Thomas L. Mashburn and Frank J. Miller, B-189471, April 10, 1978, 78-1 CPD 277. Moreover, as the Administrator pointed out in the decision and as specifically stated in section 3(a) of the act, supra, debarment does not begin until the names are published in the debarred bidders list. Therefore, contrary to the understanding of the clients, there was no legal prohibition against their competing for Government contracts during the period between the Administrator's decision and the actual date of debarment.

Further, once an individual or firm is placed on the debarred bidders list for violation of the Davis-Bacon Act, there is no authority to remove the name from the list before the expiration of the 3-year statutory debarment period. Mashburn Electric Company, Inc., Thomas L. Mashburn and Frank J. Miller, supra; B-160402, September 17, 1968.

Therefore, we have no authority to reduce the term of the debarment.



For the Comptroller General  
of the United States