

**DECISION**

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

**FILE:** B-217939

**DATE:** September 25, 1985

**MATTER OF:** Hope General Painting, Inc., - Davis-Bacon  
Act Debarment - Stipulation Agreement

**DIGEST:**

The Department of Labor (DOL) recommended debarment of a contractor for violations of the Davis-Bacon Act constituting a disregard of its obligations to employees under the Act, and an agreement was reached in an administrative law proceeding stipulating to the contractor's debarment. Accordingly, where a contractor specifically stipulates to debarment, after being granted due process by DOL in the form of an administrative law proceeding, we accept DOL's finding as evidence of a violation of the Davis-Bacon Act. The contractor is ordered debarred under the Act.

The Assistant Administrator, Employment Standards Administration, United States Department of Labor (DOL), by a letter dated October 11, 1984, recommended that the names Hope General Painting, Inc. (Hope), and Crescenzo Conti, individually and as owner, be placed on the ineligible bidders list for violations of the Davis-Bacon Act, 40 U.S.C. §§ 276a to 276a-5 (1982), which constituted a disregard of obligations to employees under the Act. We concur in DOL's recommendation.

Hope entered into contract number DOT-CG01-9257 with the United States Department of Transportation for painting services. This contract was subject to the Davis-Bacon Act requirements that certain minimum wages be paid. Further, pursuant to 29 C.F.R. § 5.5(a) (1984), the contractor was to submit payroll records certified as to correctness and completeness, specifying--among other things--rates of pay, hours worked, and wages paid for each worker.

The DOL found, as a result of an investigation, that employees performing work for Hope under this contract were not paid the minimum wages required pursuant to the Davis-Bacon Act. Further, DOL found that rates of pay, hours worked, and wages paid as reported on the certified

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payrolls were falsified. Hope was notified by certified letters--dated October 15, 1980, and February 26, 1982-- of the nature and extent of the Davis-Bacon Act violations with which it was charged, and that debarment was possible. Hope was also given an opportunity for a hearing on the matter before an administrative law judge in accordance with 29 C.F.R. §§ 5.6(c) and 5.11(b) (1980 and 1981). A hearing was requested. However, on May 23, 1984, an agreement was reached between DOL, and Hope and Crescenzo Conti, and approved by the administrative law judge (Hope General Painting, Inc., Case No. 82-DBA-17, Office of Administrative Law Judges, United States Department of Labor (June 4, 1984) (Dunau, A.L.J)), providing for payment to the wage claimants of withheld funds, and for debarment of Hope and Crescenzo Conti under the Davis-Bacon Act.

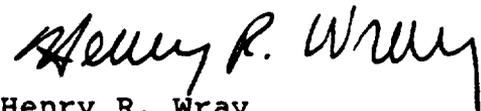
The Davis-Bacon Act provides that the Comptroller General is to debar persons or firms whom he has found to have disregarded their obligations to employees under the Act. 40 U.S.C. § 276a-2. In this regard, we make independent legal determinations based upon our own evaluation of the evidence in each case. B-3368, March 19, 1957. However, where a contractor specifically stipulates to debarment, after being granted due process by DOL in the form of an administrative law proceeding, we accept DOL's findings as evidence of a violation of the Davis-Bacon Act. Malloy Construction Company, B-216861, June 25, 1985, 64 Comp. Gen. \_\_\_\_\_. Based on the May 23, 1984, agreement, we accept DOL's findings that the wage claimants were underpaid and that rates of pay, hours worked, and wages paid as reported on the certified payrolls were falsified. Falsification of payroll records is a basis for debarment under the Davis-Bacon Act. J&B Painting Co., B-217327, June 7, 1985.

Therefore, we find that Hope General Painting, Inc., and Crescenzo Conti, individually and as owner, have disregarded their obligations to employees under the Davis-Bacon Act. We order that the names Hope General Painting, Inc., and Crescenzo Conti, individually and as owner, be included on a list to be distributed to all departments of the Government. Pursuant to statutory direction (40 U.S.C. § 276a-2), no contract shall be awarded to them or to any

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firm, corporation, partnership, or association in which they or any of them, have an interest until 3 years have elapsed from the date of publication of such list.

Further, we order that the funds on deposit with our Office--\$4,573.57--be disbursed to the wage claimants in accordance with established procedures.

A handwritten signature in cursive script, reading "Henry R. Wray".

Henry R. Wray  
Associate General Counsel