

**DECISION**

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

*Reidinger  
Sum II*

**FILE:** B-219695**DATE:** November 19, 1985**MATTER OF:** J. T. Cazeault & Sons, Inc. - Davis-Bacon  
Act Debarment**DIGEST:**

The Department of Labor recommended debarment of a subcontractor and certain of its officers under the Davis-Bacon Act because of underpayment of wages to its employees and falsification of certified payroll records. Based on our independent review of the record in this matter, we find that there was a substantial violation of the Act in that the underpayment of wages was intentional. We conclude that the subcontractor disregarded its obligations to its employees. Therefore, the subcontractor and the named individuals will be debarred under the Act.

The Assistant Administrator, Employment Standards Administration, United States Department of Labor (DOL), has submitted a recommendation that the name of a business firm and the names of certain of its officers be placed on the ineligible bidders list for violations of the Davis-Bacon Act, 40 U.S.C. §§ 276a to 276a-5 (1982). Those names are: J. T. Cazeault & Sons, Inc., Jon Cazeault, individually and as President, and Joseph Cazeault, individually and as Vice President. For the reasons that follow, we concur in that recommendation.

The record shows that J. T. Cazeault & Sons, Inc., performed work as a subcontractor under contract No. DTCG24-83-C-10115 with the U.S. Coast Guard Air Station, Otis ANG Base, Cape Code, Massachusetts, doing roofing work. 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.

As a result of an investigation, the DOL found that employees were not paid the minimum wages required by the Davis-Bacon Act, and that the certified payrolls, which had been signed by Jon Cazeault and by Joseph Cazeault, were falsified. By certified letter dated March 21, 1985, J. T.

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Cazeault & Sons, Inc., was given notice in detail of the violations with which it was charged, and that debarment was possible. Further, the firm was given an opportunity for a hearing on the matter before an administrative law judge in accordance with 29 C.F.R. §§ 5.11(b) and 5.12(b) (1984). The DOL reports that while this letter was received, no hearing was requested.

After reexamining the record, the DOL determined that J. T. Cazeault & Sons, Inc., disregarded its obligations to employees under the Davis-Bacon Act, without any factors militating against debarment. Therefore, DOL recommended that the names of the firm and the above-named officers be placed on the ineligible bidders list for violations of that Act. We note that, according to the record, the employees who were underpaid have now received all wages due them.

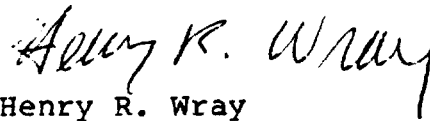
The Davis-Bacon Act provides that the Comptroller General is authorized to debar persons or firms whom he has found to have disregarded their obligations to employees under the Act. 40 U.S.C. § 276a-2. In Circular Letter B-3368, March 19, 1957, we distinguished between "technical violations" which result from inadvertence or legitimate disagreement concerning employee classification for minimum wage purposes, and "substantial violations" which were intentional as demonstrated by bad faith or gross carelessness in observing minimum wage obligations to employees under the Act. Falsification of payroll records is a basis for debarment under the Act. See, e.g., Metropolitan Home Improvement Roofing Co., Inc., B-215945, January 25, 1985.

Based on our independent review of the record in this matter, we find there was a substantial violation of the Act in that the underpayment of employees was intentional as demonstrated by the firm's bad faith in the falsification of certified payroll records. Therefore, we conclude that the firm and the named officers, disregarded their obligations to their employees under the Davis-Bacon Act.

Accordingly, the names J. T. Cazeault & Sons, Inc., Jon Cazeault, individually and as President, and Joseph Cazeault, individually and as Vice President, will be included on the list of ineligible bidders to be

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distributed to all departments of the Federal government. Pursuant to statutory direction (40 U.S.C. § 276a-2), no contract shall be awarded to that firm, or to the above-named individuals, or to any firm, corporation, partnership, or association in which any of them have an interest until 3 years have elapsed from the date of publication of such list.



Henry R. Wray  
Associate General Counsel