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DECISION



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

FILE: B-219690 **DATE:** January 17, 1986

MATTER OF: Bamford Fire Sprinkler Co., Inc. -
Davis-Bacon Act Debarment

DIGEST:

The Department of Labor recommended debarment of a contractor under the Davis-Bacon Act because the contractor had failed to pay its employees the minimum wages required by the Act and had falsified certified payroll records. Based on our independent review of record in this matter, we conclude that the contractor disregarded its obligations to its employees under the Act. There was a substantial violation of the Act in that the underpayment of employees was intentional. Therefore, the contractor will be debarred under the Act.

The Assistant Administrator, Employment Standards Administration, United States Department of Labor (DOL), by letter to the Comptroller General, dated June 13, 1985, has recommended that Bamford Fire Sprinkler Co., Inc., and Joe Heinrich, individually and as President of Bamford Fire Sprinkler Co., Inc., be placed on the debarred bidders list for violation of the Davis-Bacon Act, 40 U.S.C. §§ 276a to 276a-5 (1982). For the following reasons, we concur with DOL's recommendation, and order its implementation.

Bamford Fire Sprinkler Co., Inc., performed work under Contract Nos. DACA41-80-C-0060, DACA41-82-C-0200 and DACA41-82-C-0189, for the Department of the Army at Fort Riley, Kansas. The contract was subject to the Davis-Bacon Act requirements that certain wages be paid. Further, pursuant to 29 C.F.R. § 5.5, the contractor was to submit payroll records certified as to correctness and completeness.

The DOL found as a result of an investigation that employees were not paid the minimum wages required pursuant to the Davis-Bacon Act. Further, DOL found that certified payrolls were falsified regarding the fringe benefit contributions. These payrolls were certified to be true and complete by Joe Heinrich as President of the firm.

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The DOL notified Bamford Fire Sprinkler Co., Inc., and Mr. Heinrich of the violation of which they were charged by certified letter, together with an admonition that debarment was possible. Further, they were given an opportunity for a hearing before an administrative law judge in accordance with 29 C.F.R. §5.12(b) (1984). The DOL reported to us that they did not respond. After reexamining the record, DOL found that Bamford Fire Sprinkler Co., Inc., and Joe Heinrich violated the Davis-Bacon Act without any factors militating against debarment. Therefore, DOL recommended that Bamford Fire Sprinkler Co., Inc., and Joe Heinrich be placed on the debarred bidders list for violations of the Davis-Bacon Act which constitutes a disregard of obligations to employees under the Act. We concur in this recommendation. We note that the record indicates that full restitution to the employees has been made.

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 B-3368, March 19, 1957, we distinguished between "technical violations" which result from inadvertence or legitimate disagreement concerning classification, and "substantial violations" which are intentional as demonstrated by bad faith or gross carelessness in observing obligations to employees with respect to the minimum wage provisions of the Davis-Bacon Act. Falsification of payroll records is a basis for debarment under the Davis-Bacon Act. See, e.g., Tharpe and Tharpe Inc., B-217811, August 26, 1985.

Based on our independent review of the record in this matter, we conclude that Bamford Fire Sprinkler Co., Inc., and Joe Heinrich, individually and as President of Bamford Fire Sprinkler Co., Inc., disregarded their obligations to their employees under the Davis-Bacon Act in that the underpayment of employees was intentional as demonstrated by their bad faith in falsification of certified payroll records.

Accordingly, Bamford Fire Sprinkler Co., Inc., and Joe Heinrich, individually and as President of Bamford Fire Sprinkler Co., Inc., will be included on a list to be distributed to all departments of the Government, and, pursuant to statutory direction (40 U.S.C. § 276a-2),

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no contract shall be awarded to them or to any 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.

A handwritten signature in black ink that reads "Henry R. Wray". The signature is written in a cursive, slightly slanted style.

Henry R. Wray
Associate General Counsel