



United States  
General Accounting Office  
Washington, D.C. 20548

Office of the General Counsel

B-229380

July 11, 1988

Mr. Frank Santucci  
Vice President  
Martell Construction Company, Inc.  
15 South Miller Avenue  
P. O. Box 326  
Penns Grove, New Jersey 08069

Dear Mr. Santucci:

This is in response to your letter dated May 4, 1988, in which you refer to our letter to you dated January 19, 1988, in which we informed you that your name would be included on a list of ineligible bidders pursuant to 40 U.S.C. § 276a-2 (1982) for violations of the Davis-Bacon Act, 40 U.S.C. §§ 276a to 276a-5 (1982). You correctly point out that your name did not appear on the January 1988 list of ineligible bidders, and you state your strong belief that you should have been included on that earlier list "due to the fact that we have not been able to bid work for Warminster or Willow Grade Naval Base for the past three (3) years since the investigation was going on." Your name did appear on the ineligible bidders list published May 25, 1988.

The Davis-Bacon Act provides that "no contract shall be awarded to the persons or firms appearing on the list . . . until three years have elapsed from the date of publication of the list containing the names of such persons or firms." The Act does not provide for any exemption or variance from this requirement. Although you allege that you were unable to bid work while the investigation of your Davis-Bacon violations was in progress, we are unaware of any prohibition based in law which would have prevented you from doing so. We do, however, regret the delay in placing your name on the list.

Sincerely yours,

Henry R. Wray  
Associate General Counsel