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

B-202320

June 16, 1981

Finding

In the matter of Wendel and Company, Inc., and Joseph Lauber, General Manager of said corporation, 324 Troy Pike, Covington, Ohio 45318.

Section 1(a) of the Davis-Bacon Act of August 30, 1935, 49 Stat. 1011, 40 U.S.C. § 276a (1976), provides in part as follows:

"The advertised specifications for every contract in excess of \$2,000, to which the United States * * * is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works of the United States * * * and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics * * * and every contract based upon these specifications shall contain a stipulation that the contractor or his subcontractor shall pay all mechanics and laborers employed directly upon the site of the work, unconditionally and not less often than once a week and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics * * *."

Section 3(a) of the act provides that--

"* * * the Comptroller General of the United States is further authorized and is directed to distribute a list to all departments of the

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Government giving the names of persons or firms whom he has found to have disregarded their obligations to employees and subcontractors. No contract shall be awarded to the persons or firms appearing on this list or to any firm, corporation, partnership, or association in which such persons or firms have an interest until three years have elapsed from the date of publication of the list containing the names of such persons or firms."

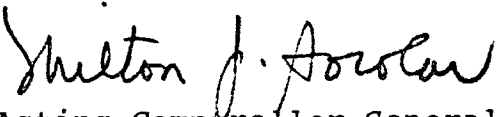
Contract No. V552-C-729 in excess of \$2,000 was awarded by the Veterans Administration to Staffco Construction, Inc. The contract contained the stipulations and representations required by section 1 of the Davis-Bacon Act. A subcontract to install toilets in Patrick Hospital was awarded to Wendel and Company, Inc.

An investigation conducted by the Department of Labor disclosed that the subcontractor, Wendell and Company, Inc., having full knowledge of its statutory and contractual responsibilities, did nevertheless disregard these obligations as evidenced by the deliberate payment of subminimum wage rates to persons employed by it on the subject project. As a result of this investigation, six employees were found to have been underpaid a total of \$2,425.98 in violation of the terms of the Davis-Bacon Act, and the subcontractor made full restitution to the underpaid workers. The record also indicates that the certified payrolls submitted to the contracting agency contained incorrect information designed to simulate compliance with the applicable labor standards requirements.

By certified letter dated August 26, 1980, the Deputy Administrator, Wage and Hour Division, Department of Labor, notified the subcontractor in detail of the nature and extent of the labor standards violations charged against the firm, but no facts in rebuttal or argument against debarment were submitted by the subcontractor in response to this letter.

It is clear, particularly in light of the falsified payrolls, that good faith was not shown in complying with the act and the contractual provisions. Both the Department of Labor and the Veterans Administration have recommended imposition of debarment.

We therefore find that Wendel and Company, Inc., and Joseph Lauber, individually, have disregarded "obligations to employees" within the meaning of the Davis-Bacon Act. Accordingly, these names will be included on a list for distribution to all agencies of the Government pursuant to statutory requirements and no contract shall be awarded to them or to any firm, corporation, partnership, joint venture or association in which they or either of them has an interest until 3 years have elapsed from the date of publication of such list.


Acting Comptroller General
of the United States