

**DECISION**

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

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**FILE:** B-219693**DATE:** January 17, 1986**MATTER OF:** Standard Builders - Davis-Bacon Act  
Debarment**DIGEST:**

The Department of Labor recommended debarment of a contractor under the Davis-Bacon Act because the contractor had falsified certified payroll records and had failed to pay its employees the prevailing wage rates. Based on our independent review of the 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 the employees was intentional and the certified payrolls were falsified. Therefore, the contractor will be debarred under the Act.

The Assistant Administrator, Employment Standards Administration, U.S. Department of Labor (DOL), has submitted a recommendation that the names of a business firm and an officer of the firm be placed on the ineligible bidders list for violations of the Davis-Bacon Act, 40 U.S.C. §§ 276a - 276a-5 (1982). Those names are Standard Builders and John Anthony, individually and as President. For the reasons that follow, we concur in that recommendation.

The record shows that Standard Builders performed work as a subcontractor under contract No. DTCG24-83-C-10115 at the U.S. Coast Guard Air Station, Otis Air Force Base, Massachusetts, doing construction work on the renovation of 30 housing units. Pursuant to 29 C.F.R. § 5.5(a) (1984), the contractor was required to submit payroll records certified as to correctness and completeness.

As a result of an investigation, the DOL found that two employees were not paid the minimum wages required by the Davis-Bacon Act, one employee was not included on the payroll records, and the certified payrolls were falsified.

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During a conference with a DOL representative, Mr. Anthony, the President of the firm, admitted that the employees were not paid the required prevailing rates and that the certified payroll records contained incorrect information. The DOL also reports that the back wages due the employees were computed by DOL and that the firm made full restitution.

By certified letter dated September 28, 1984, Standard Builders and Mr. Anthony were given notice in detail of the violations with which they were charged and notice that debarment was possible. They were also given an opportunity for a hearing on the matter before an administrative law judge in accordance withh 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 Standard Builders disregarded its obligations to its employees under the Davis-Bacon Act, without any factors mitigating against debarment. Therefore, DOL recommended that the names of the firm and the above-named officer be placed on the ineligible bidders list for violations of that Act.

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 classification, and "substantial violations" which were intentional as demonstrated by bad faith or gross carelessness in observing minimum wage obligations to employees 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 that there were substantial violations of the Act in that the underpayment of employees was intentional as demonstrated in the falsification of certified payroll records. Therefore, we conclude that Standard Builders disregarded its obligations to its employees under the Davis-Bacon Act. The record also shows that Mr. Anthony participated in the conduct that violated the Davis-Bacon Act by signing the certified payroll records.

Accordingly, the names Standard Builders and John Anthony, individually and as President, will be included on the list of the ineligible bidders to be 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, to the above-named individual, or to any firm, corporation, partnership, or association in which the individual has an interest until 3 years have elapsed from the date of publication of such list.



Henry R. Wray  
Associate General Counsel