

Office of the General Counsel

B-231193.2

August 18, 1988

**Sylvester L. Green, Director
Contract Standards Operations
U. S. Department of Labor**

Dear Mr. Green:

By letter dated June 2, 1988, B-231193, I concurred with the Department of Labor's recommendation that the names of Cummings Contracting, Inc., and Elton Cummings, individually and as its president and owner, be placed on the Comptroller General's Ineligible Contractors List for violations of the Davis-Bacon Act, 40 U.S.C. §§ 276a to 276a-5 (1982). This was done on the next available List which was effective June 24, 1988. B-3368, June 24, 1988.

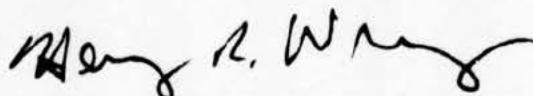
However, your Department has subsequently informed us that Cummings Contracting, Inc., has alleged that it submitted a timely request for a hearing at the Department of Labor (DOL), which was apparently lost in the mail, and that DOL is now willing to give Cummings Contracting a hearing, as provided for in 29 C.F.R. Part 5.

Accordingly, I will remove the names of Cummings Contracting, Inc., and Elton Cummings, individually and as its president and owner, from the next available List which is due to be published on August 25, 1988, and I remand this matter to the Department of Labor for an administrative hearing. At the conclusion of that hearing, our Office will be pleased to consider your Department's further recommendation in regard to this matter.

We note that the removal of these parties from the List is not retroactive to June 24, 1988, but will become effective

on August 25, 1988. See T & A Painting, Inc., B-228483, Dec. 4, 1987, 87-2 CFD ¶ 553; S.A.F.E. Export Corporation, B-222823, B-222846, B-222897, Apr. 30, 1986, 86-1 CPD ¶ 424; Royal Flush Janitorial Services, Inc., B-220410, Nov. 13, 1985, 85-2 CPD ¶ 552.

Sincerely yours,



Henry R. Wray
Associate General Counsel

cc: Mr. Elton Cummings
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