



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

October 8, 1980

B-200292

FINDING

Decision

In the matter of Ekistics Construction Company, also known as Ekistics Design Group, Inc., and its president, George Webster, individually, 16250 Densmore North, Seattle, Washington 98133.

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

"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 Government giving the names of persons or firms whom he has found to have

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[ALLEGED VIOLATIONS of the DAVIS-BACON Act]

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. CX-9000-7-9001 in excess of \$2,000 for construction work in connection with water and sewer systems, John Day Fossil Beds National Monument, Oregon, was awarded by the Department of the Interior to Ekistics Construction Company, also known as Ekistics Design Group, Inc. The contract contained the stipulations and representations required by section 1 of the Davis-Bacon Act.

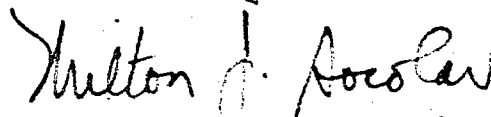
An investigation conducted by the Wage and Hour Division, United States Department of Labor, disclosed that the contractor, Ekistics Construction Company, also known as Ekistics Design Group, Inc., having full knowledge of its statutory and contractual responsibilities, did nevertheless disregard these obligations as evidenced by the deliberate payment of subminimum wage rates to persons employed by the contractor on subject project. As a result of this investigation, six employees were found to have been underpaid a total of \$7,869.40. The sum of \$7,000 due the contractor under the contract was transferred to the Seattle Regional Office of the Wage and Hour Division where it was subsequently disbursed to the workers. The contractor refused to pay the balance of the amount due. The record also revealed that certified payrolls submitted to the contracting agency contained incorrect information designed to simulate compliance with the applicable labor standards requirements.

By registered letter dated February 24, 1979, the Deputy Administrator, Wage and Hour Division, advised the contractor of the nature and extent of the labor standards violations and afforded it an opportunity to rebut the charges. At the request of the contractor, an informal proceeding in accordance with section 5.6(c), title 29, Code of Federal Regulations, was scheduled for February 13, 1980,

before Mr. Gordon Claucherty, Assistant Regional Administrator. However, the contractor did not attend the meeting and was not represented by counsel. On March 4, 1980, Mr. Claucherty issued his decision recommending debarment. The contractor filed objections to the decision but the Assistant Secretary, Employment Standards Administration, Wage and Hour Division, affirmed the Assistant Regional Administrator's decision.

[It is clear, particularly in light of the falsification of the payrolls, that good faith was not shown in complying with the act and contractual provisions.] The Department of Labor has recommended imposition of debarment sanctions.

We therefore find that Ekistics Construction Company, also known as Ekistics Design Group, Inc., and its president, George Webster, 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 and, pursuant to statutory direction, no contract shall be awarded to them or to any firm, corporation, partnership, or association in which they have an interest until 3 years have elapsed from the date of the publication of such list.]



For the Comptroller General
of the United States



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

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October 8, 1980

Ekistics Construction Company
a/k/a Ekistics Design Group, Inc.
16250 Densmore North
Seattle, Washington 98133

Attention: Mr. George Webster
President

Gentlemen:

Enclosed is a copy of our Finding of today that Ekistics Construction Company, also known as Ekistics Design Group, Inc., and its president, George Webster, have disregarded obligations to employees within the meaning of the Davis-Bacon Act, 40 U.S.C. § 276a (1976), in the performance of contract No. CX-9000-7-9001 for construction work at the John Day Fossil Beds National Monument, Oregon.

Pursuant to the provision of section 3(a) of the act, the names of the above firm and individual shall be included on our next published list of ineligibles and no Government contract will be awarded to either of them or to any firm, corporation, partnership, or association in which they or either of them has a interest until 3 years have elapsed from that date.

Sincerely yours,

For the Comptroller General
of the United States

Enclosure