



17477
COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-200979

March 25, 1981

Mr. Leroy A. Bauman
President
Roy A. Bauman Company, Inc.
5750 Furnace Avenue
Elkridge, Maryland 21227

Dear Mr. Bauman:

Enclosed is a copy of our finding of today that Roy A. Bauman Company, Inc., and Leroy A. Bauman, individually, have disregarded obligations to employees within the meaning of the Davis-Bacon Act, 40 U.S.C. § 276a (1976), in the performance of contracts Nos. DAKF-27-75-C-0166, DAKF-27-75-C-0217, DAKF-27-76-C-0131, DAKF-27-76-C-0169, DAKF-27-76-C-0323, DAKF-27-76-C-0360, DAKF-27-76-C-0047 and DAKF-27-76-C-0330 for construction work at Fort Meade, Maryland, and Riverdale United States Army Reserve Center, Maryland.

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

Milton J. Fowler

Acting Comptroller General
of the United States

Enclosure

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Individuals Added to



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FINDING

In the matter of Roy A. Bauman Company, Inc., and Mr. Leroy A. Bauman, owner and president.

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 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."

Contracts Nos. DAKF-27-75-C-0166, DAKF-27-75-C-0217, DAKF-27-76-C-0131, DAKF-27-76-C-0169, DAKF-27-76-C-0323, DAKF-27-76-C-0360, DAKF-27-76-C-0047 and DAKF-27-76-C-0330, all in excess of \$2,000 for construction work at Fort Meade, Maryland, and Riverdale United States Army Reserve Center, Maryland, were entered into during 1975, 1976 and 1977 by the Department of the Army and Roy A. Bauman Company, Inc. All of the above contracts contained the stipulations and representations required by section 1 of the Davis-Bacon Act.

Investigations conducted by both the Department of the Army and the Department of Labor disclosed that the contractor, 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 projects. As a result of these investigations, it was determined that 11 employees had been underpaid a total of \$12,912.36 in violation of the terms of the Davis-Bacon Act. No funds were available for withholding by the contracting agency and the contractor has refused to make restitution. Mr. Leroy A. Bauman, president and owner of the contractor, admits that he knew of his obligations under the Davis-Bacon Act, but nevertheless submitted certified payrolls to the contracting agency which contained incorrect information designed to simulate compliance with applicable labor standards requirements. This admission by Mr. Bauman was corroborated by employees' statements and the certified payrolls.

By letter dated June 2, 1979, the Deputy Administrator, Wage and Hour Division, United States Department of Labor, notified the above-named contractor in detail of the nature and extent of

the labor standards violations charged against Mr. Bauman and his firm. At the request of Mr. Bauman, an informal proceeding was held on July 10, 1979, in Philadelphia, Pennsylvania, with Mr. Raymond G. Cordelli, the Assistant Regional Administrator for Wage and Hour Division, acting as presiding officer. Mr. Bauman presented certain statements concerning his performance on these contracts. By certified letter dated July 12, 1979, Mr. Cordelli advised the contractor that the statements in rebuttal were not sufficient to stop the debarment action. No appeal was taken from this determination. Subsequently, Mr. Bauman had several telephone discussions with the Wage and Hour officials at the Philadelphia Regional Office concerning the payment of the back wages. However, on March 24, 1980, Mr. Bauman indicated that he would not pay the back wages found due.

It is clear, particularly in light of the fact that Mr. Bauman admitted that he deliberately paid his employees less than was called for by the wage determination and falsified the certified payrolls to conceal the underpayment, that good faith was not shown in complying with the act and the contractual provisions. Both the Department of the Army and the Department of Labor have recommended imposition of debarment.

We therefore find that Roy A. Bauman Company, Inc., and Leroy A. Bauman, 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 the 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.

Milton J. Aroslan

Acting Comptroller General
of the United States