



089910
REPRODUCTION -- Not to be released
COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-168560
3-26-71



RELEASED

B-168560

Labor

MAR 26 1971

DLG 05924

Dear Mr. Steiger:

In your letter dated January 23, 1970, you requested that we review the legality of the contingent fees paid by contractors under the Department of Labor's Special Impact program in Los Angeles, California, to the investment banking firm of Dempsey-Tegeler and Company, Incorporated, and that we look into the entire question of contingent fees paid to private companies who act as a liaison with the Federal Government. In your discussion with members of my staff on February 26, 1970, you stated that your interest was limited to contingent fees for contracts awarded under Federal manpower programs.

By letter dated April 17, 1970, we advised you that, in our current evaluations of contracts awarded under Federal manpower programs administered primarily by the Department of Labor, we would:

1. Determine whether a substantial percentage of contractors indicated that contingent fees had been paid to firms or persons to help secure the contracts.
2. Look specifically for an indication as to whether contingent fees were paid in connection with contracts for the Food Service Industry Training Project, Incorporated, of Hartford, Connecticut, which administers a Department of Labor on-the-job training program for cooks, waiters, and waitresses under the Manpower Development and Training Act of 1962, as amended (42 U.S.C. 2571).
3. Consider recommending that the Secretary of Labor revise the Department's regulations to prohibit the payment of contingent fees for securing manpower training contracts, if our reviews showed that payment of contingent fees was a common practice.

We also advised you, by letter dated July 23, 1970, of our belief that the fees paid by the Special Impact program contractors in Los Angeles to Dempsey-Tegeler and Company, Incorporated, were not in violation of the law or the Federal Procurement Regulations.

In summary, our reviews over the past 12 months revealed no other payments of contingent fees to firms or individuals to secure any of

914755

089910

B-168560

the manpower training contracts which we reviewed, including the contracts awarded to, and administered by, the Food Service Industry Training Project, Incorporated. Further particulars on our examination are set forth below.

BACKGROUND

In accordance with section 254(a) of Title 41, United States Code, and with the Federal Procurement Regulations (FPR 1-1.503), every contract executed by executive agencies, including the Department of Labor's Manpower Administration, is required to contain a "covenant against contingent fees" provision, which reads as follows:

"The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee."

The regulations require each executive agency to secure from prospective contractors, before a contract is awarded, a written representation as to whether they (1) have employed or retained any company or person (other than a full-time employee working solely for the prospective contractor) to solicit or secure the contract and (2) have paid or agreed to pay a fee contingent upon award of the contract. The regulations also require the contractors to agree to furnish information relating thereto as may be required by the contracting officer.

During the past 12 months we reviewed 312 contracts awarded primarily during fiscal years 1969 and 1970 under the Department of Labor's major Federal manpower training programs. The contracts in the total amount of \$38.7 million were selected on the basis of their size, significance, complexity, and representativeness of overall program operations.

The contracts provided for manpower training activities to be carried out in eight of the Department of Labor's 10 Manpower Administration regions in accordance with the institutional training and on-the-job training provisions of the Manpower Development and Training Act of 1962, as amended; the Concentrated Employment Program, and related programs authorized by the Economic Opportunity Act of 1964, as amended

B-168560

(42 U.S.C. 2740); the Job Opportunities in the Business Sector program; and the work incentive program authorized by title II of the Social Security Amendments of 1970 (42 U.S.C. 630). The manpower programs authorized by the Economic Opportunity Act are administered by the Department of Labor under authority delegated from the Office of Economic Opportunity.

We also reviewed a contract, in the amount of \$379,373, awarded by the Department to the Food Service Industry Training Project, Incorporated, to administer on-the-job training projects for cooks, waiters, and waitresses in eight States during fiscal years 1969 and 1970. The contract required that the Food Service Industry Training Project, Incorporated, enter into subcontracts with various restaurants and food service operators to provide on-the-job training and, if necessary, institutional training for cooks, waiters, and waitresses. We examined about 215 subcontracts, amounting to about \$91,000, awarded by Food Service Industry Training Project, Incorporated, to various food service facilities located in the States of Connecticut, Maryland, Massachusetts, and New York.

RESULTS OF REVIEW

Our review revealed no indications that contingent fees had been paid to firms or individuals to help secure any of the manpower training contracts we reviewed, including the contract with the Food Service Industry Training Project, Incorporated, and 215 of the subcontracts it awarded to restaurants and food service facilities. We found that the manpower training contracts usually contained a covenant against contingent fees clause as required by the regulations or the contract files contained a representation that no contingent fees had been paid to secure the contracts.

We also discussed the matter of contingent fees with the administrator of the Food Service Industry Training Project, Incorporated, and with Department of Labor regional officials responsible for manpower training programs. These officials advised us that they knew of no instances where a company or an individual had been retained and/or paid for helping a firm to secure a manpower training contract.

On the basis of our review, we believe that there is no need for recommending that the Secretary of Labor revise the Department's regulations to prohibit the payment of contingent fees for securing manpower training program contracts.

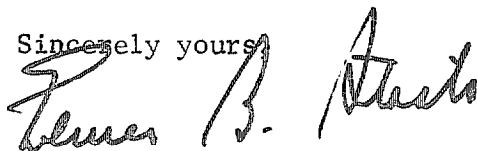
We plan to make no further distribution of this report unless copies are specifically requested, and then we shall make distribution only

B-168560

after your agreement has been obtained or public announcement has been made by you concerning the contents of the report.

We trust that the foregoing information will serve the purpose of your request.

Sincerely yours

A handwritten signature in cursive script, appearing to read "Thomas B. Staats". The signature is written in dark ink and is positioned to the right of the typed name "Thomas B. Staats".

Comptroller General
of the United States

The Honorable William A. Steiger
House of Representatives