



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

Mr. Phillips
PLI
14728

B-199609

August 25, 1980

[Notification of Debarment for Violation of
Davis-Bacon Act]

Mr. Danny Vick, President
Vick's Economy Insulation Co.
a/k/a Economy Insulation Co.
557 Lafayette Boulevard
Fredericksburg, Virginia 22401

Dear Mr. Vick:

Enclosed is a copy of our finding of today that Vick's Economy Insulation Co., a/k/a Economy Insulation Co., and its president, Danny Vick, have disregarded obligations to employees within the meaning of the Davis-Bacon Act, 40 U.S.C. § 276a (1976), in the performance as a subcontractor on contract No. DACA31-76-C-0164 at Fort Belvoir, Virginia.

Pursuant to the provisions of section 3(a) of the act, these names will be included on the list of debarred contractors and no Government 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 publication of the list.

Sincerely yours,

Harry R. Van Cleave

For The Comptroller General
of the United States

Enclosure

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

B-199609

August 25, 1980

FINDING

In the matter of Vick's Economy Insulation Co., a/k/a Economy Insulation Co., and Danny Vick, 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 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

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. DACA31-76-C-0164, in excess of \$2,000, for the insulation of barracks buildings at Fort Belvoir, Virginia, was entered into between the United States Army Corps of Engineers and the Small Business Administration (SBA) pursuant to section 8(a) of the Small Business Act, 15 U.S.C. § 637(a). SBA subcontracted the work to Jones & Artis Construction Company which in turn subcontracted a portion of the work to Vick's Economy Insulation Co. The contract and subcontracts contained the stipulations and representations required by section 1 of the Davis-Bacon Act.

The Corps of Engineers' review of the certified payrolls submitted by Vick's Economy Insulation Co. showed a disproportionate number of employees classified as "common laborers." Consequently, the Corps of Engineers conducted an investigation. The investigation disclosed that the company, having full knowledge of its statutory and contractual responsibilities, did nevertheless disregard those obligations as evidenced by its classification and payment of workers as "common laborers" even though they performed the duties of "asbestos workers," a classification which had a higher wage rate. After the president of the company was advised of the misclassification, he continued the practice and refused to make restitution to the employees involved. Subsequently, Jones & Artis Construction Company terminated the contract with Vick's Economy Insulation Co. and provided for restitution.

By letter dated November 21, 1979, the Deputy Administrator, Employment Standards Administration, Wage and Hour Division, United States Department of Labor, notified Vick's Economy Insulation Co. and its president in detail of the nature and extent of the labor standards violations and provided an opportunity for them to explain why they should not be debarred. No reply to the letter was received.

In the circumstances, we conclude that the continued practice of misclassifying and the refusal to make restitution after advice that the asbestos workers were not bona fide common laborers constitute a willful intent to underpay the workers in violation of the Davis-Bacon Act. Both the Corps of Engineers and the Department of Labor have recommended debarment.

We therefore find that Vick's Economy Insulation Co., a/k/a Economy Insulation Co., and its president, Danny Vick, 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 the 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.

Harry R. Van Cleave

For The Comptroller General
of the United States



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

CLAIMS DIVISION

Z-2820564

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JUL 16 11:19

The Comptroller General

We are forwarding the file pertaining to the apparent violations of the Davis-Bacon Act, 40 U.S.C. 276a, by Vick's Economy Insulation which performed work under Department of the Army, contract No. DACA31-76-C-0164 at Fort Belvoir, Virginia.

Details of the violations and administrative recommendations concerning debarment are contained in the attached investigative report and Department of Labor transmittal letter.

We propose, with your approval to disburse the \$1,621.50 on deposit here to the 10 aggrieved workers in accordance with established procedures. Our proposal and the matter of whether the contractor's name should be placed on the debarred bidders list for violations under the Davis-Bacon Act is forwarded for your consideration and instructions.

For further information, please contact Glenn Wolcott on extension 53218.

Chief, Payment Branch

Indorsement

B-199609-O.M.

August 25, 1980

Associate Director, FGMS Division-Claims Group

Returned. Vick's Economy Insulation Co., a/k/a Economy Insulation Co., and its president, Danny Vick, are being notified of debarment for violation of the Davis-Bacon Act, 40 U.S.C. § 276a (1976), in accordance with the attached letter and Finding (copies), and these names should be included on the next listing of ineligibles.

The funds on deposit may be disbursed to the aggrieved employees in accordance with established procedures.

Harry R. Jan Clev

For The Comptroller General
of the United States

Attachments - 3