

Mr. HARSHA. And will it not also have the effect of reducing the number of miles constructed in comparison with the cost it takes to construct them now?

Mr. ROTHERMUND. Very definitely.

Mr. HARSHA. Now, could you also—I understand the Secretary of Labor, in addition to directing that certain highway contracts are not to be awarded until such time as the Secretary of Labor makes a finding about certain employment practices of the contractors—am I accurate in that statement?

Mr. ROTHERMUND. Yes, sir. This is under this Equal Employment Opportunity, Presidential directive, and they have issued rules and regulations that call for a preaward conference, where representative of the Labor Department would sit in on the award of the contract that, by statute, should be made by the highway director.

Mr. HARSHA. What is the effect of this regulation?

Mr. ROTHERMUND. Well, the first job that was sold in Ohio bids were taken on yesterday; so it is now in that process, and we do not know exactly what is going to happen.

Mr. HARSHA. Could you enlighten us a little more on the problems that you anticipate with regard to such a directive as this?

Mr. ROTHERMUND. By taking away the awarding authority from the highway director and bringing into the picture a situation that is not specifically covered in the specifications—in other words, what they plan on doing, according to the directive from the Office of Federal Contract Compliance is to consult with the contractor after the bids are taken, with the low bidder, to determine whether or not he has an affirmative action program in equal employment opportunity.

And then, from their consultation with the contractor and a review of his operation, they will determine whether or not he has a positive posture in equal employment and then recommend, or not recommend, the award of the contract.

We feel that this will completely disrupt the competitive bidding system under which our great highway system has been and is being built.

For instance, if a contractor is exceptionally low in his bid and leaves, as we say, a lot of money on the table, he could very well not have a positive posture, on purpose, not to, in order to get out from underneath the bid.

If a second bidder has a record of employing a lot of minority groups, it could very well be that the Office of Federal Contract Compliance then would want to bypass the low bidder and go to the second bidder, and thereby causing an increased cost in order to have the minority group representation on the project that they want.

As I say, the first job under this new procedure was sold yesterday, and we do not know exactly what is going to happen, but we see many, many pitfalls lying ahead.

Mr. HARSHA. Well, now, have they defined what a positive program is? Are there any guidelines?

Mr. ROTHERMUND. No, sir. They say that they expect the contractor to use the same ingenuity in figuring this out that he does in figuring work on bidding a job, and building the job.

Mr. HARSHA. Do you want to comment on that, Mr. Miller?

Mr. MILLER. Thank you, Mr. Harsha.