

Memorandum

190.2900

To: Mr. Gary J. Jugum

Date: July 16, 1991

From: John L. Waid

Subject: Contractor's Bid as Fixed-Price Contracts (§ 6376.1)

In one of our many conferences on July 11, 1991, we discussed the rule to be applied in the situation where a subcontractor submits an irrevocable bid for a contract which otherwise qualifies as a fixed-price contract under staff interpretations, but is subject to the condition that the bid is terminated if the general contractor to whom it was submitted does not win the contract for which the bid was made. You requested a synopsis of the rule which we will follow in such a situation. What follows is based on a portion of former Regulation 1521.5(c)(5), modified to take into account the above situation:

“A contractor will be considered to have entered into a fixed-price contract prior to July 15, 1991, if prior to that date he submitted a bid which became irrevocable prior to that date and was accepted prior to becoming revocable, even if such acceptance occurs after July 15, 1991.”

Former Regulation 1521.5 covered this area of fixed-price construction contracts under previous statutes. Should we propose that the Board revive this regulation?

JLW:es
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