

Memorandum

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a California Way of Life.*

To: DEPUTY DISTRICT DIRECTORS, Construction
DEPUTY DIVISION CHIEF, Structure Construction
CONSTRUCTION MANAGERS
SENIOR CONSTRUCTION ENGINEERS
RESIDENT ENGINEERS

Date: June 1, 2018

File: Division of Construction
CPD 18-5

From: RACHEL FALSETTI, Chief
Division of Construction

Subject: STEEL PRICE INCREASES

Recent changes in economic conditions, including new tariffs, have resulted in some contractors approaching the California Department of Transportation (Caltrans) for materials price adjustments. For fixed price contracts, contractors are legally required to honor their bid prices throughout the contract. BusinessDictionary.com defines a fixed price contract as a:

“Contract that provides for a price which normally is not subject to any adjustment unless certain provisions (such as contract change, economic pricing, or defective pricing) are included in the agreement. These contracts are negotiated usually where reasonably definite specifications are available, and costs can be estimated with reasonable accuracy. A fixed price contract places minimum administrative burden on the contracting parties, but subjects the contractor to the maximum risk arising from full responsibility for all cost escalations. Also called firm price contract.”

Caltrans’ *Standard Specifications* contains a price adjustment clause for asphalt price adjustments and includes other specified deductions for out-of-compliance materials. Increased costs resulting from wage orders, sales tax increases, and materials price escalation (such as those from tariffs) are the responsibility of the contractor, as Caltrans’ fixed price contracts do not contain such price adjustment provisions. In 2004, when steel prices notably increased, the Federal Highway Administration’s direction was that it was legally prohibited from approving use of federal-aid highway funds for retroactive price adjustments in existing contracts.

Caltrans continues to work with the construction industry to determine whether additional price adjustment provisions need to be included in future contracts. For change order work that affects bid items related to steel, the contractor may request a change in character for the work based on cost increase, and the change order should be written so that materials costs are based on invoices and appropriate mark-up.

If you have questions or comments regarding this directive, please contact Ken Darby, Division of Construction, at Ken.Darby@dot.ca.gov or (916) 653-2032.