



U.S. Department
of Transportation
**Federal Highway
Administration**

Office of the Administrator

400 Seventh St., S.W.
Washington, D.C. 20590

April 8, 2004

Refer to: HIPA

Mr. Neil J. Pedersen
Administrator
Maryland State Highway Administration
707 North Calvert Street
Baltimore, MD 21202

Through: Nelson Castellanos
Division Administrator
Baltimore, Maryland

Dear Mr. Pedersen:

Neil

Thank you for your April 2 letter regarding the impact of recent steel price increases on the Woodrow Wilson Bridge Project. We have been working with the American Association of State Highway and Transportation Officials and the industry to evaluate the extent of the price spike and ways of addressing the problems it is causing.

We have long supported, but do not mandate, the appropriate use of price adjustment clauses in future contracts for steel and other products when they can reduce contingencies in construction bids and provide for an equitable adjustment of costs that may increase during the life of a project. However, our policy has not allowed the use of price adjustment clauses for existing contracts, as you requested for the Woodrow Wilson Bridge Project.

After a careful review of the issue in light of recent price increases, we have concluded that we are legally prohibited from approving the use of Federal-aid highway funds for retroactive price adjustment clauses in existing contracts. At the same time, we recognize that such clauses may be needed in some cases. Therefore, we would not object to a retroactive price adjustment clause for the Woodrow Wilson Bridge Project if the State can clearly demonstrate the following:

- Any incremental costs associated with the proposed change will be covered solely by State funds and will not involve the use of Federal funds, apportioned or otherwise.
- Any change would not adversely affect the conditions upon which the project's Finance Plan was approved.

We will advise all State transportation departments of this clarification of our policy on retroactive price adjustment clauses.



I appreciate your letting me know how the price spike in steel is affecting the project's contractors and structural steel fabricators. Division Administrator Nelson Castellanos will be pleased to work with the State if you decide to proceed with a retroactive price adjustment clause in accordance with the necessary restrictions.

Please let me know if I can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Rich Capka", followed by a horizontal line extending to the right.

J. Richard Capka
Deputy Administrator