

~~{ii}~~ 1. THE PROCUREMENT AGENCY, ~~WITH THE~~ APPROVAL ~~OF THE BOARD OF CONTRACT APPEALS~~, MAY DECLARE THE CONTRACT NULL AND VOID; OR

~~{iii}~~ 2. THE PROCUREMENT AGENCY, ~~WITH THE~~ APPROVAL ~~OF THE BOARD OF CONTRACT APPEALS~~ AND WITHOUT PREJUDICE TO THE STATE'S RIGHT TO APPROPRIATE DAMAGES, MAY RATIFY AND AFFIRM THE CONTRACT IF IT ~~DECIDES~~ DETERMINES IN WRITING THAT DOING SO IS IN THE STATE'S BEST INTEREST.

[Subtitle 3. State Procurement Regulations.]

[12-301.] 11-108. STATE PROCUREMENT REGULATIONS.

(a) [The Board and each department shall adopt regulations to carry out the provisions of this Division II of this article.]

(1) EACH REGULATION ADOPTED UNDER THIS SUBTITLE DIVISION II THAT IS IN EFFECT ON THE DATE OF EXECUTION OF ANY CONTRACT GOVERNED BY THIS SUBTITLE, UNLESS OTHERWISE INDICATED IN THE REGULATION, IS APPLICABLE TO THE CONTRACT.

(2) THE REQUIREMENTS OF ANY LAW OR REGULATION RELATING TO A MANDATED CONTRACTUAL PROVISION ARE SATISFIED IF NOTICE OF THE PROVISION, INCLUDING ITS SUBJECT MATTER, IS GIVEN IN THE CONTRACT.

(b) [State] A procurement [regulations] REGULATION may not change [in any way a preexisting contractual obligation] ANY COMMITMENT, RIGHT, OR OBLIGATION OF A STATE AGENCY OR OF A CONTRACTOR UNDER A CONTRACT IN EXISTENCE ON THE EFFECTIVE DATE OF THE REGULATION.

{(c)} A State procurement regulation which has been adopted prior to the making of a contract and which requires that a certain contractual provision is mandatory for inclusion in all or certain contracts shall be considered included in such contracts, whether physically incorporated into the contract or not, if notice of the specific provision, including its subject matter, is a part of the contract. Any other State procurement regulation may become part of a procurement contract only if it is set out in the contract or it is incorporated by reference with the consent of all parties. However, the parties to the contract may consent to incorporation by reference at any time after the contract has been made without the necessity of consideration passing to either party.]

[Title 13. Source Selection and Contract Formation.]

[Subtitle 1. Definitions.]

[13-101.]

(a) In this title, the following words have the meanings indicated.