

File No. 77341

October 9, 1944

Mr. Thomas D. Conn, Assistant Harbor Engineer  
Bureau of Harbors  
Recreation Pier  
Foot of Broadway  
Baltimore, Maryland

Dear Mr. Conn:

In your letter of September 20, 1944, you requested a ruling from this office on the legality of eliminating a substantial item from a contract bid before the award of the contract, where the mutual consent of both the bidder and the Harbor Engineer is obtained. The facts out of which this question arise are as follows:

On the 8th of September, 1944, the Board of Awards opened the only bid that was received on the drydocking and doing certain work on the two ice breakers, namely, the "F. C. Latrobe" and the "Annapolis." This bid was received from Booz Brothers, Incorporated. On examination of the contract, I noticed that the amount bid on each boat as a separate item was \$2,995.00. There are only two other firms in Baltimore which have the facilities for doing this type of work, namely, the Bethlehem Steel Company and the Maryland Drydock Company, and each of these companies have stated that they are already doing so much war work that it is impossible for them to bid on this proposal. In a letter dated October 3, 1944, from Mr. W. H. Jory, Assistant to the Vice-President of the Maryland Drydock Company, to Colonel Henry G. Perring, the Harbor Engineer for the City of Baltimore, we are further advised that the Maryland Drydock Company is not in a position to bid on either one or two vessels, because of present commitments. And in a similar letter dated October 2, 1944, addressed to Colonel Perring, Mr. J. M. Willis, the General Manager of the Bethlehem Steel Company advises that the Company is not in a position to bid on one or two ice breakers. It seems, therefore, that the only contractor capable of doing this work at present is Booz Brothers, Incorporated. Of course, Booz Brothers, Incorporated, understands that at the time of the advertising of the proposals, the City thought that the United States Inspectors would demand that the "Annapolis" be drydocked this year, but since the advertising, the United