



National Association of Surety Bond Producers

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BY ELECTRONIC TRANSMISSION (franciska.b.blankenfeld@usace.army.mil)

May 1, 2014

Ms. Franciska B. Blankenfeld
U.S. Army Corps of Engineers, Omaha District
Contracting Officer
1616 Capitol Avenue
Omaha, NE 68102-4901

RE: Twenty-Five (25) Year Roof Installer's Warranty in Amendment No. 0003 to the Specifications and Drawings for Construction of 4th ID CAB Consolidated Fire, Safety & Security Facility, PN 77221, Fort Carson, Colorado

Dear Ms. Blankenfeld:

On behalf of the National Association of Surety Bond Producers (NASBP), a national trade association of surety bond producers, including licensed resident and nonresident producers placing bonds in the State of Colorado and in other jurisdictions, I am contacting you regarding the extended (25 year) duration of the Roofing System Installer Warranty at Section 1.8.2 of Amendment No. 0003 of Solicitation No. W9128F-14-B-0005. This long-term warranty requirement has just come to our attention, prompting us to express our concerns to you about the substantial impact extended warranties have on the construction and surety communities.

A lengthy warranty period, such as one of 5 or more years, imposed on the contractor poses considerable problems from a surety underwriting perspective. Sureties usually are comfortable in covering a warranty obligation of one to two years. Durations longer than two years increase substantially the uncertainty regarding underwriting projections about the contractor's future viability. In other words, sureties cannot gauge the soundness and financial wherewithal of a particular construction company for periods extending too far into the future. The tenuousness of the present economic environment further underscores the difficulty, if not impossibility, of underwriting guarantee obligations of 5 or more years, much less obligations of 25 years.

Long warranty obligations also reduce competition from the standpoint of eliminating from the bidder/proposer pool all but the largest contractors, since only large contractors can shoulder the higher risks inherent in such contracts. Small contractors effectively are precluded, for they likely will not have the sophistication to adequately price such long-term warranty obligations and likely will not have a sufficient level of financial capital on hand to provide the surety company with assurance of the small contractor's fiscal strength and ability over an extended time period.

The 25-year warranty requirement imposed on the roofing system installer under Section 1.8.2 provides not only that the installer is responsible for "replacement of damaged or affected materials" but also is responsible, along with the roof membrane manufacturer (see section 1.8.1a.), for "all costs associated with the repair or replacement work." Such longer, non-industry standard warranty requirements effectively preclude many, highly qualified contractors, lowering bid and price competition on such projects significantly. While it is standard in the industry for roofing system manufacturers to furnish such long-term warranties on materials and systems, this is not standard for roofing system installers or for their sureties.

For projects financed with public funds, such lengthy warranty requirements will no doubt hamper, if not foreclose, small and disadvantaged business participation at prime and subcontractor levels. Small and disadvantaged businesses usually are more thinly capitalized and cannot assume the higher risks posed by the longer warranty durations. If small business inclusion is a goal of the project, these warranty durations absolutely are contrary to realizing that goal.

For these reasons, NASBP respectfully requests your reconsideration of imposing a 25-year warranty requirement on contractors performing roofing work and the inequitable transfer of risk from the manufacturer to the performance bond surety. Warranty durations of less than three years are pragmatic approaches, which are regularly underwritten by sureties, with longer warranty durations solely provided by manufacturers, which regularly assume longer warranty risks.

I appreciate your consideration of our concerns, and I would be happy to answer any questions you may have.

Yours sincerely,



Martha L. Perkins
General Counsel

cc: Mark H. McCallum, CEO
Larry LeClair, Director, Government Relations