August 31, 2020

Mr. Michael O. Jackson *michaelo.jackson@gsa.gov*
Procurement Analyst
General Services Administration (GSA)
1800 F Street, NW
Washington, DC 20006

***RE*: FAR case 2019-013**

Submitted electronically via: *https://www.regulations.gov*.

Dear Mr. Jackson;

We, the undersigned members of the Construction Industry Procurement Coalition (CIPC), which includes the construction industry trade and professional organizations representing tens of thousands of firms and individuals engaged in architecture, engineering, prime contracting, subcontracting, specialty trade contracting, and suretyship write in strong opposition to the Federal Acquisition Regulation (FAR) Case 2019-013, which seeks to increase the payment bond threshold from $35, 000.00 to $40,000.00 as delineated in Federal Acquisition Regulation (FAR) Part 28 Bonds and Insurance (28.102-1(b)(1), 28-102-2(c) and 28-102-3(b).

By increasing the payment bond threshold, subcontractors and suppliers are exposed to potential risks of non-payment. CIPC strongly supports the current payment bond threshold because it requires nearly all federal construction projects to have payment bonds in place to protect those businesses should the prime contractor fail to meet its payment obligations. Moreover, these construction businesses, many of which are small businesses, cannot lien public property, so their only payment remedy is a payment bond.

CIPC members have witnessed firsthand the important policy reasons for surety bonds on federal construction projects. Surety bonds assure that a prime contractor is qualified to perform its contractual obligations to the specifications in the awarded contract while protecting the federal procuring agencies in the event that the prime contractor fails to meet its obligations under the contract.

Increasing the payment bond threshold does not necessarily mean that small and emerging contractors will have greater opportunity to obtain more federal construction business. A small and emerging contractor could act as a subcontractor on one of these projects, which would expose them to the same risk the government agency incurs from an unsecured contractor. Over time, increasing payment bond thresholds on federal construction projects would harm small and emerging contractors and suppliers by substantially increasing their risk of nonpayment if they operate as subcontractors without proper security requirements.

Again, the undersigned organizations strongly oppose increasing the payment bond threshold from $35, 000.00 to $40,000.00, as noted in the FAR Case 2019-013 Part 28 Bonds and Insurance.

Thank you for your consideration of this request and for the support of the construction industry, which includes the undersigned organizations that comprise the CIPC membership.

Sincerely,

American Council of Engineering Companies (ACEC)
American Subcontractors Association (ASA)
Associated General Contractors of America (AGC)
Independent Electrical Contractors (IEC)
National Association of Surety Bond Producers (NASBP)
National Electrical Contractors Association (NECA)
Sheet Metal & Air Conditioning Contractors National Association (SMACNA)
Surety & Fidelity Association of America (SFAA)
The Design-Build Institute of America (DBIA)
Construction Industry Round Table (CIRT)