



National Association of Surety Bond Producers

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BY ELECTRONIC TRANSMISSION (kevin.kopetz@ct.gov)

January 28, 2013

Kevin Kopetz, Director of Legal Services
Department of Construction Services
State of Connecticut
165 Capital Avenue
Hartford, CT

**RE: Duration of Warranty Requirements in Bidding Specifications for CT
Agricultural Experimental Station**

Dear Mr. Kopetz:

On behalf of the National Association of Surety Bond Producers (NASBP), I am contacting you regarding the extended durations of contractor/installer warranty requirements relating to portions of the construction services specified for a Connecticut Agricultural Experimental Station. Such information recently has come to our attention, prompting us to express our concerns to you about the substantial impact these unusual, extended warranties have on the construction and surety communities.

A lengthy warranty period, such as one of 5 or more years, 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.

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.

I note that multiple 5-year warranty requirements are called for on elements of the work throughout the bidding specifications for this project. For example, Section 07 13 26 addressing the installer's warranty on sheet waterproofing calls for a 5-year warranty period, and Section 07

72 33 calls for an installer warranty of the same duration for metal roof hatches. Even more problematic, other installer warranty durations are significantly longer, such as for 10 years on metal wall panel assemblies and on the weathertightness of standing-seem metal roof panels and 15-years on a workmanship warranty concerning EPDM roofing. Such stringent and non-industry standard warranty requirements effectively preclude all but “best-in-class” contractors, lowering bid and price competition on such projects significantly.

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 5 and 10 year warranty requirements on contractors/installers performing elements of the work. Installer 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,

A handwritten signature in black ink, appearing to read "Mark H. McCallum", with a long horizontal flourish extending to the right.

Mark H. McCallum
CEO

cc: Larry LeClair, NASBP