



National Association of Surety Bond Producers

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BY ELECTRONIC TRANSMISSION (jeff.martinez@state.nm.us)

March 20, 2015

Jeffrey E. Martinez, P.E.
Plans, Specifications & Estimates Bureau Manager
New Mexico Department of Transportation
1120 Cerrillos Road
Santa Fe, NM 87504-1149

Re: Long-Term Warranties and Long-Term Warranty Bonds for NMDOT Projects

Dear Mr. Martinez:

I am contacting you on behalf of the National Association of Surety Bond Producers (NASBP), a national trade association of surety bond producers, including agencies employing licensed resident and nonresident producers placing bid, performance, and payment bonds in the State of New Mexico and all other jurisdictions.

We recently received information from some of our members that the New Mexico Department of Transportation (NMDOT) seeks to impose long-term warranties on contractors and to require long-term warranty bonds on future NMDOT projects.

Lengthy warranty periods, such as those of five (5) years and over, exceed the standard warranty period of one to two years for contractors in the United States and will restrict the availability for bonds on such projects. Lengthy warranty periods pose considerable problems for most sureties. Most sureties are usually comfortable with issuing bonds for contracts with a warranty obligation of one or two years. Durations longer than two years increase substantially the uncertainty regarding underwriting projections about a contractor's future viability. Simply put, sureties are less able to gauge the soundness and financial wherewithal of a particular construction company for periods extending too far into the future.

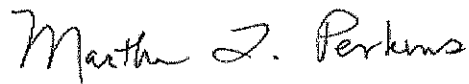
Significantly, long-term warranty bonds, such as a five-year warranty bond, for example, for a Bridge Deck Overlay, reduces competition from the standpoint of eliminating from the bidder/proposal pool all but the largest contractors, since most sureties will not write this kind of obligation and those few that will write it will only do so for the largest contractors that can shoulder the higher risks inherent in such contracts. Small contractors and local contractors are effectively precluded from bidding on such projects, for they are much less likely able to qualify for surety credit. With less competition and a smaller pool of potential bidders, the cost to NMDOT for these projects will likely be higher.

NMDOT, as a public entity, undoubtedly seeks to maximize the inclusion of small and disadvantaged businesses on its projects. A warranty bond requirement of five years runs counter to achieving such a goal. Shortening the duration of the contractor's warranty and the warranty bond would better serve the purposes of small business inclusion by maximizing, not reducing, competition.

NASBP respectfully requests that NMDOT reconsider the five-year contractor warranty requirement and the five-year warranty bond requirement for its projects, in the interest of robust competitive bidding, lower project cost, and enhanced small, disadvantaged, and local business inclusion.

Please let me know if you would like to discuss this matter. Thank you for your prompt consideration of NASBP's concerns.

Yours sincerely,

A handwritten signature in cursive script that reads "Martha L. Perkins".

Martha L. Perkins
General Counsel

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