



National Association of Surety Bond Producers

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BY ELECTRONIC TRANSMISSION (jason.renfroe@docoschools.org)

August 20, 2015

Mr. Jason Renfroe, Director
Dougherty County School System
Logistical Services Department
601 Flint Avenue
Albany, Georgia 31701

Re: Required Use of Subguard for CM/GC Proposers on Dougherty County Board of Education Monroe High School Phase II, Project No. 16-FAC-002

Dear Mr. Renfroe:

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 Georgia and all other jurisdictions.

We recently received information from some of our members that the Dougherty County Board of Education (Board) has imposed a requirement on the CM/GC to provide to the Board, among other things, "Subguard® [sic] Insurance for all subcontractors" on the Monroe High School Phase II, Renovations, Modifications and Additions, Project No. 16-FAC-002 (Project), in Albany, Georgia. This requirement is problematic on a number of levels, and NASBP wants to apprise you of those problems.

The Subguard requirement unfairly restricts competition--unfair to the potential CM/GC firms and to the public. Only the very largest CM/GC firms are able to qualify for the Subguard product, unnecessarily restricting competition. As you know, when competition is artificially restricted in this manner, the cost to the public treasury--and to the taxpayers--increases. This Subguard requirement would likely preclude otherwise qualified CM/GCs from submitting proposals, as many contractors, regardless of size, do not use Subguard.

Use of a Subguard program restricts competition for the construction subcontracts as well as the contracts. The CM/GC is required to provide Subguard for all subcontractors. What happens if certain qualified subcontractors are not accepted into the Subguard program? It would appear that such subcontractors would be eliminated from the potential subcontractor pool, again restricting competition and increasing pricing.

In addition, SDI is not comparable to performance and payment bonds, for a number of reasons.

First, use of the Subguard product provides none of the extensive checks on the subcontractors' qualifications and financial strength, as are performed by sureties considering whether to issue bonds on behalf of a subcontractor. Sureties have deep experience in prequalifying potential bond principals and will only issue bonds if they believe the principal capable of performing the contract.

Without subcontractor performance and payment bonds, that important risk mitigation tool—surety prequalification services—is absent.

It is critical to note that Subguard does not provide any payment coverage to lower-tier subcontractors and suppliers. On the other hand, a subcontractor payment bond would indeed ensure payment to downstream subs and suppliers, protecting those smaller businesses and the work flow of the Project. And, of course, downstream subs and suppliers cannot lien a public project, so they need the protection of payment bonds.

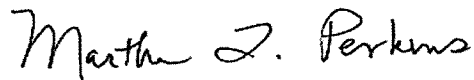
Significantly, the aggregate limit of liability is very different for Subguard and for performance and payment bonds. With Subguard the CM/GC must select a limit of liability and hope it is sufficient. On the other hand, performance and payment bonds generally each equal 100% of the contract amount. It should be noted as well that the Subguard program has deductibles (sometimes quite large) before coverage is provided, whereas performance and payment bonds provide first-dollar coverage.

Traditional performance and payment bonds provide more protection to a project's owner, CM/GC, subcontractors, and suppliers than Subguard, and, significantly, they provide more protection to the Project itself and to taxpayers.

For all the reasons cited above, NASBP respectfully requests that the Board reconsider the requirement for the CM/GM to provide Subguard insurance for all subcontractors. A prudent alternative would be to require the CM/GC to obtain performance and payments bonds from all of its direct subcontractors, in order to ensure they are prequalified to perform the work under their subcontracts and to ensure that the work is properly performed and that downstream subs and suppliers are paid for work performed and materials supplied.

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

Yours sincerely,



Martha L. Perkins
General Counsel

cc: Mark H. McCallum, CEO
Larry LeClair, Director, Government Relations
Shannon Crawford, Manager, State Relations

