



National Association of Surety Bond Producers

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BY ELECTRONIC TRANSMISSION (david.tomaino@sduhsd.net)

May 6, 2015

David Tomaino, Construction Contracts Analyst
Planning & Facilities Department
San Dieguito Union High School District
684 Requeza Street
Encinitas, CA 92024

**Re: NASBP Comments on San Dieguito Union High School District
Prequalification Questionnaire**

Dear Mr. Tomaino:

I am contacting you on behalf of the National Association of Surety Bond Producers (NASBP), a national trade association of companies employing licensed surety bond producers in all jurisdictions, including those licensed resident and non-resident bond producers in the State of California. NASBP recently became aware that the San Dieguito Union High School District (SDUHSD) has a Contractor's Prequalification Questionnaire (Questionnaire) that artificially precludes certain contractors from bidding on SDUHSD projects, with no concomitant benefit to the SDUHSD. This Questionnaire and its limiting effect on competition give NASBP significant cause for concern.

Specifically, the Questionnaire provides that no contractor will be prequalified to perform a SDUHSD project if it answers "no" to any of the Quick Check questions. The Basis for Prequalification provides and Number 7 asks if the firm has completed at least three public works projects for school districts in California with a minimum \$1 million value each within the last five years. Such an automatic disqualification question will preclude otherwise qualified contractors from bidding on such projects.

NASBP agrees that it is reasonable for an owner to desire to find out the experience and level of experience of a contractor on such contracts, but to make an arbitrary decision on the ability of a contractor to bid on projects creates a highly subjective universe and it significantly reduces the bidding pool. Questions such as those in #7 in should be factors in the process but not single and arbitrary disqualifiers of a contractor who might very well be qualified to perform the work. As you know, limiting the number of contractors permitted to bid on a project almost certainly increases the cost of the project to the owner.

While NASBP understands the SDUHSD wants to ensure that a contractor that performs SDUHSD projects is qualified, remember that surety companies perform prequalification of a

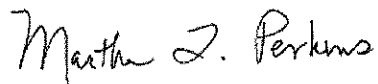
contractor prior to determining that they will back a contractor with surety credit. Surety companies only issue bonds for those contractors whom they believe, after the prequalification process, will be capable of performing the contract in accordance with the contract documents. And, in the event the contractor does fail, the bonds are available to back the contractor's performance and payment obligations.

NASBP also notes that the requirement for an audited financial statement for projects \$10 million or greater is a highly unusual requirement, which will certainly limit the bidding pool. Again, such an unnecessary requirement will chill competition and almost certainly heat up price.

We respectfully request that the SDUHSD reconsider its arbitrary and competition-limiting prequalification approach so that the public bidding process has a robust and transparent competition for projects and so that SDUHSD doesn't achieve an arbitrary result. Indeed, the criteria should be just that—criteria, factors to be considered in the process, not single-question disqualifiers. The SDUHSD receives no benefit from such a practice; on the contrary, it precludes certain qualified firms from bidding on its projects. The effect is to limit competition and likely to increase the cost of contracts for SDUHSD projects.

Please feel free to contact me should you wish to discuss this matter further. We appreciate 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