



National Association of Surety Bond Producers

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December 7, 2012

Philip S. DiNicola, R.A.
Principal
Fontanese Folts Aubrecht Ernst Architects, P.C.
6395 West Quaker St.
Orchard Park, New York 14127

**RE: Duration of synthetic slate roofing system, roof replacement – Donovan Hall,
SUNY, Institute of Technology @ Utica-Rome**

Dear Mr. DiNicola:

On behalf of the National Association of Surety Bond Producers (NASBP), a national trade association of companies employing licensed surety bond producers, including those in New York State, I am contacting you about the duration of the warranty requirement of a synthetic slate roofing system specified for a roof replacement project at the above referenced location. Such information has come to our attention, prompting us to express our concerns to you about the impact of long-term warranties being imposed on contractors.

A lengthy warranty period, such as one of 10 years, as specified in Section 07 31 33, 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. Simply put, sureties cannot gauge the soundness and financial wherewithal of a particular construction company for periods extending too far into the future. The vagaries of the present economic environment further underscore the difficulty, if not impossibility, of underwriting guarantee obligations of long duration. Likewise, in the present economic environment, sureties are reviewing contract requirements more closely to discern provisions that pose special underwriting difficulties or that shift risk imprudently.

Long warranty obligations, such as those of 5 or 10 or more years, 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 with assurance of the small contractor's fiscal strength and ability over an extended time period.

I note that this project is being undertaken by a public institution, which undoubtedly seeks to maximize the inclusion of small and disadvantaged businesses. However, the 10-year warranty imposed on the contractor runs counter to achieving such a goal and, therefore, may prove problematic for the University to achieve its overall organizational small business participation goals. Shortening the duration of the contractor's warranty will better serve the purpose of small business inclusion by maximizing, not reducing, competition.

For these reasons, NASBP respectfully requests your reconsideration of imposing a 10-year warranty requirement on the contractor performing the roofing work. A warranty term of shorter duration, such as one between one to three years, is a pragmatic approach, which is regularly underwritten, with any longer warranty duration solely provided by the manufacturer, which, again, regularly assumes such longer warranty risks.

I appreciate your consideration of our concerns, and I look forward to your response.

Yours sincerely,

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

Mark H. McCallum
CEO