



National Association of Surety Bond Producers

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BY ELECTRONIC TRANSMISSION (gloria.r.ritter@usace.army.mil)

October 19, 2012

Gloria R. Ritter
U.S. Army Engineer District, Louisville
600 Dr. Martin Luther King, Jr. Place
Room 821
Louisville, KY 40202-2267

RE: Duration of Contractor Warranty Requirements in Solicitation No. W912QR-09-R-0010 for MATOC Addressing Roofing for Army Reserve Nationwide

Dear Ms. Ritter:

On behalf of the National Association of Surety Bond Producers (NASBP), I am contacting you regarding the extended duration of contractor warranty requirements in task orders for roofing or re-roofing construction work. Such information recently has come to our attention, prompting us to express our concerns to you about the impact of long-term warranties, those exceeding one years' duration, being imposed on contractors.

A lengthy warranty period, such as one of 5 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. 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.

Long warranty obligations, such as those of 5 years or more, 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 the solicitation states: "this procurement is set aside for small business contractors." The 5-year warranty imposed on the contractor runs counter to achieving that goal and, therefore, may prove problematic for USACE to achieve its organizational small business participation

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goals. Shortening the duration of the contractor's warranty will better serve the purpose of small business inclusion by maximizing, not to reducing, competition.

I also note that the 5-year warranty requirements, those on workmanship and on materials (sheet metal), imposed on the contractor in the referenced solicitation are out of keeping with the original one-year workmanship warranty requirement of the MATOC. Please refer to the "Warranty of Construction" and the "General Requirements" provisions in the MATOC, which require that the contractor furnish a one-year workmanship warranty from the date of final acceptance or government possession.

For these reasons, NASBP respectfully requests your reconsideration of imposing 5-year warranty requirements on the contractor performing the roofing work. The usual warranty term of one year 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 look forward to your response, 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, sweeping horizontal line extending to the right.

Mark H. McCallum
CEO

cc: Jennifer J. Anderson, USACE