



National Association of Surety Bond Producers

1140 19th Street NW, Suite 800. Washington, DC 20036-5104

Phone: (202)686-3700

Fax: (202)686-3656

Web Site: <http://www.nasbp.org>

E-mail: info@nasbp.org

March 6, 2012

Sent via email to: rberger@wyoming.com

Representative Rosie Berger
Chairwoman, Wyoming House Appropriations Committee
213 State Capitol Building
Cheyenne, WY 82002

RE: SF 107, legislation to increase surety bond threshold requirements

Dear Chairwoman Berger:

On behalf of the members of the National Association of Surety Bond Producers (NASBP) a national trade organization of professional surety bond producers, whose membership includes firms employing licensed surety bond producers placing bid, performance, and payment bonds throughout the U.S., including Wyoming, I am contacting you regarding concerns with Senate File (SF) 107. Surety bonds play a vital role in our nation's economy by providing financial security to protect project owners and taxpayers by assuring that contractors are qualified to perform their contractual obligations by providing such companies with a means to be paid should the prime contractor become insolvent or fail to pay them.

SF 107 increases the bonding threshold for state public works projects from \$100,000 to \$250,000. NASBP is concerned that this legislation will have a negative impact on businesses that supply labor and materials on Wyoming public construction projects as well as the taxpayers of Wyoming.

Small businesses often cannot compete as prime contractors on public construction contracts, so they participate at subcontractor and supplier levels. At that level, these businesses only viable remedy in the event of nonpayment by the prime contractor is to claim on the statutorily-required payment bond. If the prime contractor fails to pay subcontractors and suppliers due to bankruptcy, or for other reasons, such subcontractors and suppliers do not have an alternative means to recover their wages, costs, and expenses. They cannot sue the governmental entity, since they do not have a direct contract with the governmental entity, and they cannot place a mechanic's lien against public property.

Furthermore, taxpayer dollars are at risk when state projects are awarded without the protection of performance bond guarantees. In the absence of a performance bond, additional taxpayer funds will be required to complete projects where prime contractors default in their performance of state construction contracts. By increasing the surety bond requirements, state contracting agencies also will have to shoulder a higher burden of screening and pre-qualifying more contractors, diverting their resources and energies away from other important tasks.

Currently, over 29 states have bonding requirements below \$75,000. Furthermore, under the Federal Miller Act, the Federal Government requires payment and performance bonds **for 100% of the contract price for projects in excess of \$150,000**. As noted above, the State of Wyoming, its taxpayers, and its

many businesses performing as subcontractors and suppliers on state projects have too much at risk should bonds not be in place due to a substantial increase of the bonding threshold.

NASBP urges you to leave the bonding threshold at its present level. If you have any questions concerning the issues raised, please feel free to contact me at 202-686-3700 or lleclair@nasbp.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry LeClair". The signature is fluid and cursive, with the first name "Larry" and last name "LeClair" clearly distinguishable.

Larry LeClair
Director, Government Relations