



**National Association of Surety Bond Producers**

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June 16, 2011

Trish Williams  
Senior Project Coordinator  
Wal-Mart Stores, Inc., Dept. 8974  
2001 S.E. 10th St.  
Bentonville, AR 72712-0550

Dear Ms. Williams:

I wish to make you aware of concerns that 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 United States, has regarding recent process changes on the submission of payment and performance bonds on Wal-Mart construction projects. Please see the attached letter, dated yesterday and sent to Mr. Brad Roberts, outlining our concerns and comments. NASBP would welcome a dialogue with your office for the purpose of exploring alternatives to or clarifications of these new process changes.

Thank you for your attention to this matter and your consideration of our concerns.

Yours sincerely,

Mark H. McCallum  
Chief Executive Officer

enclosure



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June 15, 2011

Brad Roberts  
Director of Contract Administration  
Wal-Mart Stores, Inc., Dept. 8974  
2001 S.E. 10th St.  
Bentonville, AR 72712-5570

Re: Concerns with new process change governing final bond submissions

Dear Mr. Roberts:

On behalf 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 United States, I am writing to convey our feedback on recent process changes made by Wal-Mart Stores, Inc. relating to the submittal of payment and performance bonds. We respectfully provide our comments in the hope that they may provide you with a better understanding of the prevailing practices and procedures followed by the surety industry. We also ask that you review your new process changes in light of the information provided in this letter and present any needed clarifications to those process changes to the construction and surety communities.

It is our understanding from an e-mail communication sent to contractors on May 26, 2011 that the new process changes include the following: "General Contractors [are] to have the Surety Company issue a copy of the bond directly to Wal-Mart within 24 hours of award, utilizing '[constad@wal-mart.com](mailto:constad@wal-mart.com)'." These process changes "are applicable as of 5/26/2011 for all newly awarded projects going forwarded."

From the e-mail communication, the reason or reasons for the process changes are not clear. The import of these process changes is clear, however, if they are meant to require only the surety company itself to submit the copies of the bond. Such a direction would be problematic for most surety companies to implement. Most sureties do not have offices located in every state. Consequently, surety companies depend on their relationships with appointed, licensed bond producers. These producers serve as attorneys-in-fact for the execution and submission of bid, payment, and performance bonds, acting as an efficient and effective distribution channel for the placement of surety bonds. *If the intent of the language is to include the surety company or its attorney-in-fact, you may wish to clarify the language to state so.*

By way of background, to require direct submission of bonds from surety companies in all instances may have the unintended consequence of violating insurance laws in multiple jurisdictions. Sales of surety bonds are governed by the laws of each state, the substance of which can vary significantly. For example, some states would require in-house surety company employees to be licensed as agents/sales representatives; others would not. In the absence of relying on their appointed producers, surety companies would have to assess staffing, licensing and other requirements in an effort to write directly. A blanket process expectation of direct surety company bond submission simply is impractical and not workable when viewed from the business and legal perspectives of most sureties.

Letter to Mr. Roberts  
June 15, 2011  
Page 2 of 2

We also are concerned about the expectation of final bond submission within 24 hours of contract award as an unrealistic and unnecessary requirement. Most public and private bid solicitations state that final bonds are to be submitted within a specified period of days, typically ranging from 5 to 7 days, not within hours of the contract award. Since the contractor likely will not commence work within 24 hours of contract award, there appears very little need to require final bond submission within such a short timeframe. What are the repercussions of not submitting copies of the final bonds within 24 hours? Would Wal-Mart make claim on the bid bond in such circumstances simply for missing the 24-hour submission deadline? *We ask that you consider lengthening the bond submission period to at least five business days.*

Such concerns with the process changes may make contractors reticent to pursue Wal-Mart construction contracts and sureties reticent to furnish associated surety bonds. To maximize competition and, in turn, to garner best bid or proposal pricing, Wal-Mart may wish to review the wisdom of implementing these process changes. NASBP would welcome the opportunity to assist Wal-Mart in exploring ways in which to achieve its process goals and to provide information and assistance on this matter or other surety matters either through conference calls or in-person meetings.

Thank you for your consideration of our comments and concerns.

Yours sincerely,

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

Mark H. McCallum  
Chief Executive Officer