



November 15, 2013

General Services Administration
Regulatory Secretariat (MVCB)
1800 F Street, N.W.
2nd Floor
Washington, D.C. 20405-0001

Attn: Hada Flowers/IC 9000-0135

Re: Comments on Information Control 9000-0135
Prospective Subcontractor Requests for Bonds

The American Subcontractors Association, Inc. (ASA) is pleased to submit its comments to assist the Department of Defense, the General Services Administration, and the National Aeronautics and Space Administration concerning providing prospective subcontractors and suppliers with a copy of the payment bond furnished by the contractor to the Government for the performance of a Federal construction contract. ASA strongly believes that subcontractor and prospective subcontractor access to copies of payment bonds is absolutely necessary. At this time, ASA does not have a recommendation for an alternative method for making this important data available. However, ASA does recommend that the agencies explore alternatives with associations representing the surety industry, including the Surety and Fidelity Association of America (SFAA) and the National Association of Surety Bond Producers (NASBP).

ASA is a national trade association representing subcontractors, specialty trade contractors, and suppliers in the construction industry. ASA members work in virtually all of the construction trades and on virtually every type of horizontal and vertical construction. ASA members frequently contract directly with the Federal Government. More often, they serve as subcontractors dealing with the Federal Government through a prime contractor. More than 50 percent of ASA members are small businesses.

ASA has long advocated for easy access by subcontractors and prospective subcontractors for copies of bonds. Subcontractors and suppliers extend credit to prime

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contractors. The payment bond provides payment assurance for these subcontractors and suppliers on construction projects.

By getting a copy of the bond prior to extending credit by signing the subcontract agreement, a subcontractor can assure that the surety itself is acceptable. For example, some sureties, particularly individual sureties, may not have sufficient assets to pay claims. In addition, there has been a significant uptick in fraudulent bonds. With a copy of the payment bond in hand, a prospective subcontractor can confirm the adequacy of the payment assurances provided by the prime contractor, prior to extending credit.

Further, the payment bond itself includes notice and claims procedures in the event of a payment default. With a copy of the payment bond in hand, a prospective subcontractor can review the notice and claims procedures to assure that they are attainable, prior to extending credit.

In addition, some payment bonds contain onerous provisions, which can change the entire contract relationship (e.g., allowing the general contractor to "declare" that the subcontractor is in default, including an expiration date that is prior to the likely completion of the project). By obtaining a copy of the bond prior to extending credit to the prime contractor, a prospective subcontractor can assure that there are no surprises hidden in a document to which it may not otherwise have access.

Prospective subcontractor access to this information does not disadvantage prime contractors. However, access to such information provides prospective subcontractors with essential information when they are pricing their subcontract proposals and permits the prospective subcontractors to make the very best offer. This certainly results in cost benefits to the buying agency and ultimately the taxpayers.

Respectfully submitted,

/s/ E. Colette Nelson

E. Colette Nelson
Chief Advocacy Officer