

An Owner's Guide To The Surety Claims Process

(optional section)

It is important know how the claims process works, so if the principal fails you know what to expect. One of the benefits of surety bonds is that when there is a default, the surety investigates and can complete the contract. The public official is left free to manage his or her own work.

When Problems Arise

Obligee

- Keep the surety informed of the principal's progress
- If principal defaults, submit written declaration of default
- Allow the surety time to investigate the claim

It is important to keep the surety informed of the principal's progress. Early and frequent communication with the surety may actually prevent default. If there is default, the obligee must make a formal, written declaration of default to the surety.

Bonds are conditional instruments that are driven by the underlying contractual agreement. The principal has legal rights surrounded by an entire body of law. Once a dispute arises, the principal has the right to defend him/her self and the surety has a responsibility to respect that right.

The obligee must also be cognizant of the surety's "contract of indemnification" with the principal, which the surety must not breach in its investigation or resolution of the claim. It is the proper default of the principal under a contract that triggers the responsibility of the surety to take action.

Surety's Responsibilities In a Claims Situation

Surety

- Principal's contractual obligations
- Obligee's contractual obligations
- Principal's defense
- Whether the obligee has met its obligations

The surety will not simply write a check on notification of a potential claim. Its investigation is a very necessary and important part of the claims process. First, the surety will conduct a contractual review and determine:

- What are the specific contractual obligations of the principal related to this contract?
- What are the obligations of the obligee?
- Does the principal have a defense against the allegations being made?
- Has the obligee met his/her obligations under the contract?

During this process the surety is making an updated and critical review of the principal. Even if the surety believes that the principal is on "solid ground," the end result may be a restriction in the availability of additional surety credit. This restriction may prompt the principal to seek a resolution to your problem.

Because the claims process is so thorough, it can take time.

Managing The Claims Process

Obligee

- Be cognizant of legal position
- Avoid improperly worded letters
- Written notice of known problems
- Ask for a specific response

There are ways to manage the claims process. Certain formalities should be followed.

- If the principal is on the verge of default under the contract, be cognizant of and cautious about your legal position.
- Improperly worded letters that may be interpreted as “Wrongful Default” can create serious problems for the obligee
- Notice in writing serves to comply with responsibilities of the obligee to protect the interest of the surety when there are known problems
- Ask for a specific response from the surety. A face to face meeting will help communicate your expectations and give the surety opportunity to let you know how the investigation is proceeding.

Surety Responsiveness

Obligee

- Be reasonable in your expectations
- Be diligent in providing notice & maintaining records
- Contact insurance commissioner

Patience is a virtue, especially when dealing with bond claims. The investigation does take time, so be reasonable in your expectations of what the surety will perform and be diligent in providing notice and maintaining records. In the event that the surety is not responsive or you feel you are not receiving a satisfactory level of attention from a surety company, contact the state insurance commissioners office to prompt cooperation from the surety. This is a step that is readily available, and rests in between doing nothing and going to litigation.

The Advantages Of Surety Bonds

Surety Bonds

- Qualified vendors
- Competitive pricing
- Timely contract performance
- Quality product
- Financial recourse
- Insulates public officials
- Efficient management of public works administration
- Protect taxpayer dollars

Surety bonds provide

- More qualified vendors
- More competitive pricing
- Timely contract performance
- Quality product and

Surety bonds

- Protect tax payer dollars
- Provide financial recourse for subcontractors, vendors & labor in event of a principal's financial insolvency
- Insulates public & elected officials in the event of problems on a contract and
- Provides more efficient management of public works administration

Your Surety Professional Is Your Consultant

**Financial
Security**

**Qualified
Principals**

The surety bond producer and the surety underwriter team are really consultants to the bonding process. Surety bonds provide qualified principals and financial security for your contracts.