

CALIFORNIA SURETY FEDERATION

March 28, 2008

Ms. Teresa Lafezer
City of Lancaster
44933 N. Fern Ave
Lancaster, CA 93534.

Subject: Bond Rating Requirements

Dear Ms. Lafezer:

On behalf of the California Surety Federation, representing over 30 carriers and independent agent brokers in California, we would like to bring to your attention provisions of state law relating to the options available to local entities when setting bonding requirements on public works.

It is our understanding that the City has in the past required that contractors who bid on city jobs had to obtain a bond rating with a rating of "A VIII." You may not be aware that as a result of legislation passed in 1992, local agencies are prohibited from requiring a bond rating higher than being "California admitted."

The California Code of Civil Procedure Section 995.670 states "No state or local public entity shall require an admitted surety insurer to comply with any requirements other than those in Section 995.660 whenever an objection is made to the sufficiency of the admitted surety insurer on the bond or if the bond is required to be approved."

A plain reading of the law requires that a public agency cannot utilize an A.M. Best rating or any other criteria to disqualify a surety so long as such surety is a California admitted surety and they otherwise comply with Section 995.660 of the California Code of Civil Procedure.

On our website you can view various documents that support this position. Specifically, posted on our website you will find the relevant code section, two Legislative Counsel's opinions on this matter, a letter from Assembly Member Polanco who authored the bill expressing his rationale for proposing this legislation, and the findings of a lawsuit on this subject.

Our organization supported this legislation, and I am aware of no public agency that has prevailed in litigation reaching a contrary opinion on the law. We would be pleased to discuss this issue or answer any questions that you may have on the subject.

Sincerely,


Paul P. Gladfelty