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THE SURETY REPORT

Last-minute bid increase! Do I notify the Surety?

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It's 1:30 in the afternoon, and you're plugging in the last-minute subcontractor/supplier numbers for a 2 p.m. bid. Several items have come in over your initial estimates, causing your bid price to escalate from \$1.2 million to \$1.7 million. Accordingly, you are rushing to get the final number to your project manager at the bid letting.

Question: Do I need to let my surety agent know about the increase in my bid?

Answer: Most likely—with a few exceptions.

When a surety carrier approves a bid bond for the

surety agent to issue on behalf of the contractor, the "unwritten rule" is for the agent to report back any bid increase in excess of 10% of the approved bid estimate. By allowing this 10% consideration, the agent and surety hope to provide enough leeway for minor increases and expected changes in subcontractor and supplier pricing.

In the above example, the surety carrier would expect to be advised since the estimate exceeded \$1.4 million. Several conditions could exist that would require the agent to notify the surety of the increase:

1. The new bid amount may exceed the single and/or aggregate limit approved for

the specific contractor. The agent must have the new bid amount approved.

2. The new bid amount may exceed the agent's or surety underwriter's branch limit of authority. Obtaining "home office" approval from the surety carrier may be required.

3. The larger bid amount may bring into play certain conditions set forth in the original approval (i.e., bonding all subs in excess of a certain dollar amount).

Most surety carrier indemnity agreements contain wording such as: "Surety shall have the right, in its full and absolute discretion, to decline the execution of any bond, including a final bond when it

has furnished a bid bond." Accordingly, it is recommended that you have an understanding with your agent and surety carrier to report bid escalations that exceed a certain limit.

In summary, it would be best to have this topic covered in a conversation with your agent well in advance of your bid. If you're ever in doubt, report any anticipated increase to your surety agent as soon as possible.

This article is offered for informational purposes only. Matt Gaynor is a vice president—underwriting and marketing with Maloney & Associates Insurance Services in Escondido. He has more than 19 years of surety experience, as an underwriter and a surety agent.