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### SFAA Persuades CMS Not to Adopt Rules Allowing Rejection of Bonds From Sureties

In response to comments from SFAA, the Centers for Medicare and Medicaid Services (CMS) has decided not to adopt an onerous proposed rule allowing it to reject bonds from certain sureties required for suppliers of durable medical equipment, prosthetics, orthotics, and supplies

(DMEPOS). Generally, the proposed rule would have allowed CMS to reject a surety bond

if the surety previously failed to pay a claim. SFAA's comments asserted that the proposed rule fell short with respect to the procedural requirements to reject or, essentially, debar a surety, which are established by statute and regulation. In addition, SFAA explained that the proposed rule would transform the bond into a demand obligation and lacked adequate due process, as well as negatively impact availability of the required bonds.

## SFAA Opposes SDI Bill in Massachusetts

SFAA submitted testimony in opposition of Massachusetts legislation that would revise existing law concerning construction managers at risk (CM at risk) to allow subcontractor default insurance (SDI) policies in lieu of the current requirement for trade contractors working for a CM at risk to provide a 100% payment and performance bond. Under the proposed legislation, the CM at risk still would have to provide 100% payment and performance bonds to the public owner. SFAA has successfully opposed similar legislation in past legislative sessions by highlighting the superior protection surety bonds provide through the robust prequalification process and absence of exclusions commonly included in SDI policies. Massachusetts held a hearing on the bill in August, but the bill is not likely to advance in the near term.



U.S. Small Business  
Administration

## Updated Analysis of Surety Bond Guarantee Program Released

The Congressional Research Service (CRS) updated its [study](#) of the Small Business Administration (SBA) Surety Bond Guarantee Program. The CRS is tasked with periodically evaluating the Surety Bond Guarantee Program to determine if Congressional action is needed to adjust the program's size or bond limit in order to fulfill its intended legislative purpose, and to ensure smaller contracting firms, especially minority-owned and women-owned small business contracting firms, can access the surety bond market place. The report states that in 2018,

the SBA guaranteed 10,800 bid and final surety bonds with a total contract value of nearly \$6.5 billion. The report does not make any definitive conclusions in determining the program's size in comparison with the private sector. The report concludes with a suggestion to examine how the supply and demand for sureties fluctuate with changes in the overall economy to determine the appropriate size of the program.

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The Surety & Fidelity Association of America  
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