AGC of America
THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
Quality People. Quality Projects.

General Comments about the Letter Writing Process:

- Deadline is October 22, 2010.
- Please maintain a professional and respectful tone in the letter. As tempting as it may be to take a different approach, such letters are likely to be very ineffective.
- Direct and succinct should be the goal.
- Letters can be mailed *or* e-mailed to the following addresses:

  Technical Director
  File Reference No. 1820-100
  Financial Accounting Standards Board
  401 Merritt 7
  PO Box 5116
  Norwalk, CT 06856-5116

  E-mail: director@fasb.org

- For e-mailed letters, please include "Comment Letter – File Reference No. 1820-100" in the subject line of the e-mail.
- In your letter, be sure to identify the perspective you are writing from (e.g. as a construction company financial executive, an external auditor serving the construction industry, a surety underwriter, a surety producer, etc.).
- In preparing your letter, it may be helpful to review various comment letters which have already been written. To access those letters, please click FASB Comment Letters, but please bear in mind that not all comment letters are written with the same quality and tone that we are striving to achieve among our constituents.

Key Points to Consider Addressing in Your Letter:

- Performance obligation approach does not represent an improvement over existing accounting for the construction industry.
- Since it appears that the construction industry will not be exempted from the proposed standard, the standard needs to be written in such a way as to not jeopardize the quality of financial reporting for the industry.
- Most contracts should not be subdivided into multiple profit centers or performance obligations because the "risks are inseparable" within the contract (key concept—please use this term exactly) which means that the customer enters into an agreement with the contractor to construct a project which adheres to specific criteria which means that all elements of the contract must function together. Trying to subdivide the contract into various performance obligations ignores the overriding risk which the contractor bears of making sure that all of the pieces of the project fit together in a working manner. It is also appropriate to talk about the fact that all of the parts of the project are "highly interrelated." This term appears in Example 11 of the revenue recognition Exposure Draft. The point to FASB should be that in most projects virtually all (not just some) of the activities under the contract are highly interrelated.
    - In making the points above, be aware of the risk of unintended consequences! Do not use phrases like "completed project," "upon final completion," "the final project" "customer acceptance at completion" or anything else that might cause the Boards to conclude that they should consider a return to completed contract accounting. This is a very important point. In making a successful argument that the contract should not be subdivided into multiple performance obligations, we have to avoid going too far in this reasoning which could cause Board members to conclude that the only time the risks can be satisfied are upon contract completion. To be successful, we must walk a philosophical tightrope. We fully believe that risks can be continually satisfied (or, said another way, transferred to the customer) but still recognize the reality that project activities are highly interrelated and contain risks that cannot be separated from the standpoint of creating multiple performance obligations or profit centers.
- Construction companies manage their businesses at the contract level. Sureties provide credit on a on contract-by-contract basis. It is inappropriate to try to determine revenues on any basis other than at the contract level.
- The contract price used for measuring revenue recognition should exclude the effects of bonuses or penalties until the impact of such bonuses or penalties can be measured with reasonable certainty.
- While the industry is not opposed to complying with a new revenue recognition standard, as many of the tenets of SOP 81-1 (now known as ASC 605-35) should be retained in this process as possible. With appropriate reconsideration of certain initial conclusions reached by the Boards in the Exposure Draft, we believe that most of the tenets of SOP 81-1 can be appropriately carried over.
- Private companies need additional time to comply with any new revenue recognition standard beyond their public company counterparts.

For more information contact Karen Lapsevic at 202-547-4733 or lapsevick@agc.org.

Example Letter Language

October __, 2010

Financial Accounting Standards Board
401 Merritt 7
PO Box 5116
Norwalk CT 06856-5116
Attn: Technical Director – File Reference No. 1820-100

(Via U.S. Mail and Electronic Mail)

Re: **Comments on the FASB and IASB's Exposure Draft on Revenue Recognition from Contracts with Customers**

Dear Sir or Madam:

As a (construction company financial executive, auditor serving the construction industry, surety providing credit to the construction industry), we are extremely interested in the Boards project on revenue recognition and it is our desire to ensure that high-quality accounting for the construction industry is maintained.

We have significant concerns over how the new standard may be applied to (our company, our clients, our customers, our industry). The current guidance in the Exposure Draft for recognizing revenue at the "performance obligation" level presents significant challenges for (us, my company, etc.) and carries the very real risk of adverse economic effects on our industry stemming from an inferior method of revenue recognition. The inherent subjectivity of the prescribed process for identifying and allocating revenue to performance obligations will lead to less consistency and transparency in the financial reporting process in the industry. The inherent subjectivity also opens to the door to financial engineering and outright manipulation. There are significant concerns in the surety community about any approach that diminishes consistency and increases subjectivity. As a result, surety credit will become marginally more difficult to obtain in the future in order to offset the risks associated with inferior accounting rules.

We believe the reason that the Boards are hearing negative feedback from the construction has to do with the fact that the proposed revenue recognition rules are divorced from economic reality. But we also believe that it is possible to relatively modest refinements to the guidance under the proposed standard in order to align the revenue recognition rules with economic reality.

Specifically, we request that the Boards recognize that it most cases, ALL construction activities for a given project are highly interrelated and have overall risks which are inseparable. Therefore, construction companies lack a basis for determining the price at which it would sell the components of a contract separately and as such characteristics of distinct profit margin will not be met (in most cases) and hence there are typically no more than a single performance obligation for most construction contracts.

We concur with the guidance in the Exposure Draft regarding continuous transfer and we believe it is appropriately reasoned. With respect to determining the contract price, we believe that variable consideration (i.e. bonuses or penalties) should be excluded from the calculation of contract revenue until such time as their realization is reasonably assured. Until that time, the inclusion is highly subjective and as a matter of course, we believe that most users of financial statements will not want to see such amounts included in revenue until their realization is reasonably assured.

While we appreciate the Boards efforts to create a single standard to apply to virtually all industries and transactions, we maintain a belief that the key principals of the proposed standard need to be interpreted in such a way to preserve the key tenets of SOP 81-1. Otherwise, the Boards run the very real risk of creating inferior accounting rules when applied to the construction industry.

Finally, we ask that private companies be given at least one additional year to comply with the proposed standard once it becomes effective for public companies.

Kindest regards,

Name of individual and/or organization.