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Individual Surety Bonds - Should Obligees Avoid Them?

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Individual Surety Bonds are the original form of suretyship. The earliest known record of a contract of suretyship is a Mesopotamian tablet written around 2,750 BC. There is evidence of Individual Surety Bonds in the Code of Hammurabi and in Babylon, Persia, Assyria, Rome, Carthage, the ancient Hebrews and later England.

It wasn't until 1837 that the first Corporate Surety was organized, The Guarantee Society of London.

In 1865, the Fidelity Insurance Company became the first US Corporate Surety company, but the venture soon failed.

Individual Surety Bonds remain as a viable form of suretyship to this very day. Recognized by the federal government and other public bodies as being equally valid with a corporate surety bond, there are however, some important differences.

Corporate Surety Bonds are not required to be backed 100% as Individual Surety Bonds are. Since the point of the bond is for it to be a safety net for the benefit of the obligee, the financial backing is a critical point. A rating system provided by A.M. Best is the method of evaluating the potential weakness of the corporate surety and the risk that it may not pay its obligations. This disturbing reality is common to corporate surety bonds but not Individual Surety Bonds. In the latter, the bond is backed 100% - a stronger alternative for the benefit of the Obligee.

In addition, Individual Sureties specify the actual asset backing the bond, whereas the corporate version is only general (no specific asset dedicated to the bond.)

So should Obligees avoid Individual Surety Bonds? If the long history is any indication, what has worked since 2,750 BC will continue to work tomorrow. Individual Sureties are not subject to the same requirements as Corporate Sureties (such as state licensing) and therefore it is incumbent on the obligee to confirm the acceptability of the asset backing the bond. Such is the practice used by the federal government which has no maximum limit on the size Individual Surety bond it will consider accepting. In today's business world, Individual Sureties are prepared to make full disclosure so obligees can be completely comfortable that the dedicated asset that 100% backs their bond is indeed reliable.

The comments / opinions in this article are mine personally, as a result of a 40 year history in the surety industry (most of it working for or representing corporate sureties.) I am not speaking on behalf of my employer in this article.

A 40 year veteran of the surety industry, Steve has worked in a variety of roles and is now Executive Vice-President of The IBCS Group. IBCS is Risk Manager for the Scarborough Bond & Guarantee Program - <http://www.IBCS.com> - which is a major writer of Bid and Performance bonds for contractors.

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