



May 31, 2013

U.S. Department of Transportation  
Dockets Management Facility  
Room W-12-140  
1200 New Jersey Avenue, SE  
Washington, D.C. 20590

Re: Docket No. FHWA-2012-0126

The American Subcontractors Association, Inc. (ASA) is pleased to submit these supplemental comments to those we submitted on April 10, 2013, concerning matters to be addressed by the Department's Federal Highway Administration as required by Section 1534(d) of P.L. 112-141 (Moving Ahead for Progress in the 21<sup>st</sup> Century Act or MAP-21).

Since ASA submitted its original statement, three additional states have enacted laws providing subcontractor payment assurances on construction funded through public-private partnerships:

- Florida HB 85, which is awaiting signature by Gov. Scott, applies the State's Little Miller Act to the construction components of a public-private partnership.
- Maryland HB 560 requires that the payment bond provisions in the State's Little Miller Act be provided on the value of the construction components in the public-private partnership agreement.
- North Carolina SB 75 requires a payment bond in the amount of 125 percent of the construction contract on public-private partnerships in Onslow County.

These three states join Maine, Oklahoma, Texas and Virginia in providing payment assurances to construction subcontractors and suppliers on projects financed through public-private partnerships.

This trend demonstrates that state governments increasingly recognize that, given the unpredictable diversity of public-private partnerships, they need to provide reliable payment protection to the construction subcontractors and suppliers on such projects.

ASA again urges DOT to incorporate into model contracts payment protections for subcontractors and suppliers at least as effective as those provided by the 1935 Miller Act on construction undertaken directly by a Federal agency or by the so-called Little Miller Acts of the various States for construction projects undertaken by a state agency.

Respectfully submitted,

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