August 26, 2003

Ms. Sue Bielstein, Director
Financial Accounting Standards Board
P.O. Box 5116
Norwalk, Connecticut 06856-5116

Re: FASB 150 Implementation for Nonpublic Entities and effect on the Construction Industry

Dear Ms. Bielstein:

We are writing you concerning the FASB Statement No. 150, Accounting for Certain Financial Instruments with Characteristics of Both Liabilities and Equity, issue applicability to nonpublic entities. We understand that FASB will meet on August 27, 2003, to reconsider whether nonpublic entities should be exempt from applying, or given further time to apply, the provisions of this Statement requiring mandatorily redeemable shares to be classified as liabilities.

In our opinion, and from our experienced position as independent accountants to over a hundred nonpublic construction contractors and active participants in numerous construction trade organizations, FASB 150 should not be applicable to nonpublic construction entities. Under the Statement, current amounts classified as equity will now be required to be classified as liability for many construction entities that have even simple buy/sell agreements, (whether or not these agreements are funded by life insurance policies or the equity “buy back” can be paid over time). The implementation of this Statement could be disastrous for the United States construction industry. Many construction entities are subject to current loan covenants; and/or surety bonding issues; and/or Federal and various state or authority licensing or pre-qualifications that require financial covenants requiring certain ratios or loan or surety criteria based on certain minimal equity requirements. For example, either loan agreements or surety bonds can now be considered in default as many of these are based on agreements that require (1) certain minimum equity requirements, or (2) certain maximum liability requirements, and so forth.

If the nonpublic construction entity is considered in default of their loan(s) and/or surety bonds based on such a new GAAP principle, the costs to the economy could be large or could put many nonpublic construction entities out of business. Such costs are not limited to bonding issues, refinancing issues, default issues, the need to rewrite current loan or surety provisions, the need for entities to get waiver letters about the default, the lack of financing or bonding for small contractors, and so on.
We sincerely implore FASB to realize the affect this pronouncement will have on construction companies and exempt nonpublic construction companies from the provisions of FASB 150.

Sincerely,

David R. Waddell
Director of Construction Services