SUMMER 2016, VOL. 3, ISSUE 2

Surety Bond Quarterly

AN OFFICIAL PUBLICATION OF
THE NATIONAL ASSOCIATION OF
SURETY BOND PRODUCERS

www.suretybondquarterly.org

A SPECTRUM OF OPPORTUNITIES

The Varied Realm of Commercial Surety

Subdivision Bonds

Employer Bonds

The Next Evolution: Electronic Mortgage-Related Bonds

Meet NASBP President Lynne Cook

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SUMMER 2016

The world of commercial surety is a wide-ranging spectrum with various risks, challenges, and opportunities. Previous issues of *Surety Bond Quarterly* have examined commercial surety claims, customs bonds, international commercial surety, and more. In this issue, we explore even more shades of commercial surety, including subdivision bonds, employer bonds, and mortgage broker bonds. This issue also features a profile of NASBP President Lynne Cook, who is past chair of the NASBP Commercial Surety Committee.

DEPARTMENTS

View this issue, past issues and Web-exclusive content online anytime at www.suretybondquarterly.org.

Surety Bond Quarterly is brought to you by the National Association of Surety Bond Producers, 1140 19th St., NW, Suite 800, Washington, DC 20036-5104; Phone: 202.686.3700; Fax: 202.686.3656; **www.nasbp.org. NASBP Manager:** Kathy Jo Mapes Hoffman

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NASBP Upcoming Meetings & Events

SUMMER SURETY SCHOOL—
Levels I, II, & III
July 31–August 5, 2016
Kansas City, MO

SALES AND MARKETING WORKSHOP FOR SURETY BOND PROFESSIONALS
September 21–22, 2016
Austin, TX

REGIONS 4, 5, 6 & 7 MEETING
September 22–24, 2016
Austin, TX

REGIONS 8, 9, 10 & 11 MEETING
October 2–4, 2016
Nashville, TN

REGIONS 1, 2 & 3 MEETING
October 6–8, 2016
Napa, CA

MIDYEAR MEETING
November 10–12, 2016
Annapolis, MD

WINTER SURETY SCHOOL—
Levels I and II
January 22–27, 2017
Houston, TX

ANNUAL MEETING & EXPO—
75TH ANNIVERSARY
April 23–26, 2017
Boca Raton, FL

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From the CEO

Commercial Surety is a Many-Splendored Thing

Perhaps I am dating myself, but you may remember the classic romantic 1950s film *Love is a Many-Splendored Thing*, starring William Holden and Jennifer Jones, which was adapted from the autobiographical novel *A Many-Splendored Thing* by Han Suyin. Although interesting, the plot line of the movie and the original work is not why I raise this reference; rather it is the larger message conveyed: love is beautiful and can take many forms, despite all of its complications. I cannot think of a more fitting analogy for the breadth and complexity of the world of commercial surety. Such love of the diverse needs and changing landscape of commercial surety bonds is readily conveyed in conversations with commercial surety underwriters. They are gripped by the often varied underwriter challenges they may confront in different commercial surety bond requests. As a category of surety endeavor, commercial surety may encompass a vast array of bond types, such as charter school bonds; medical supplier bonds; bonds for owners of dangerous dogs; court bonds; license bonds; auto dealer bonds; immigration bonds; customs bonds; and so on. I personally am amazed by and fascinated with the varied risks commercial surety underwriters examine and write each day.

To better appreciate the varied realm of commercial surety, most past issues of *Surety Bond Quarterly* have profiled specific commercial surety bond types or commercial surety conditions. The very first issue of *Surety Bond Quarterly* (Summer 2014) included a case study article on commercial surety claims. Other issues have profiled probate bonds (Summer 2015) and the new electronic filing and acceptance system for customs bonds (Winter 2014). The most recent issue of *Surety Bond Quarterly* (Spring 2016) addressed facilitating international commercial surety.

I PERSONALLY AM AMAZED BY AND FASCINATED WITH THE VARIED RISKS COMMERCIAL SURETY UNDERWRITERS EXAMINE AND WRITE EACH DAY.

You can never have too much of a good thing, however, so this issue of *Surety Bond Quarterly* kicks off a two-part article series focused on subdivision bonds by Armen Shahinian, a partner with the law firm of Chiesa, Shahinian & Giantomasi P.C., in West Orange, NJ, and Beth J. Rotenberg, who is an associate at the firm. Additional articles focus on two other commercial surety bonds: employer bonds and mortgage broker bonds. The former article is authored by the current chair of the NASBP Commercial Surety Committee, Corban Enns, who is President of Surety Solutions, LLC, in Salem, OR. This issue also contains a personal and professional profile of 2016-2017 NASBP President Lynne Cook, who devoted much energy and many years of service to NASBP by serving on and by chairing the NASBP Commercial Surety Committee.

Reading of the breadth and depth of the commercial surety world lets all of us better appreciate the many-splendored thing that is commercial surety.

Warmest regards,

Mark H. McCallum
NASBP CEO

Feature

INCREASED SCRUTINY of Small Business Subcontracting Requirements

BY W. BARRON A. AVERY

WHILE MANY CONSTRUCTION contractors are doubtlessly familiar with the small business subcontracting community, few are nearly as familiar with their legal obligation to use that community's services on federal prime contracts and certain state and local construction contracts. As the federal government's crusade to combat waste, fraud, and abuse expands, contractor compliance with these obligations is coming under increasing scrutiny, with severe financial—and possibly even criminal—ramifications for those caught in the crosshairs. Construction contractors who do not currently employ robust compliance measures should make the effort to do so soon, lest they find themselves the target of the government's next investigation.

Below is a discussion of select subcontracting requirements imposed on federal contractors with a focus on the unique requirements for federal construction contractors, two case studies of how the government's increased enforcement poses new business risks to those contractors, and conclusions for surety professionals and their contractors.

A. Subcontracting Requirements are More Specific Than You Realize. The federal government has a stated policy of leveraging its position as the world's largest single consumer of goods and services to support small business enterprises. In addition to well-known programs administered by the Small Business Administration (SBA) in accordance with this policy, the government has also promulgated a variety of programs requiring prime contractors to support this goal through their subcontracting decisions. The Federal Acquisition Regulation (FAR), for example, requires virtually all contractors to "carry out" the policy of promoting small businesses by awarding subcontracts to small businesses "to the fullest extent consistent with efficient contract performance" and by prioritizing prompt payments to small business subcontractors. Additionally, for contracts above certain thresholds—$1.5 million in the case of most construction contracts—the FAR requires contractors to submit detailed subcontracting plans, including small business subcontracting goals and procedures the contractor will undertake to meet those goals.

Of greater concern to construction contractors, however, is the U.S. Department of Transportation's (DOT) Disadvantaged Business Enterprise (DBE) program, along with similar programs administered by other federal and state agencies. The regulations governing DBE programs are more detailed than those found in the FAR, creating more pitfalls for contractors not paying close attention to their obligations. Additionally, because the federal DBE program covers state and local projects assisted by federal funds, construction contractors are faced with the unique risk of facing federal consequences for their non-federal contracts.

The DOT DBE program, for example, requires states receiving federal financial assistance to develop their own goals and procedures for encouraging small business subcontracting on local construction contracts. However, DOT still prescribes strict requirements that each state program must meet, with one such requirement proving especially complicated to local officials and construction contractors alike. To prevent contractors from undermining the purpose of the program through the use of pass-through entities, DOT's regulations provide that only a DBE performing a "commercially useful function" may be counted toward the program's goals. DOT's regulations provide limited guidance as to what constitutes a "commercially useful function." Two of the factors DOT has identified as amounting to a commercially useful function include whether and to what extent the DBE independently manages its portion of the work, and whether the payments to the DBE are disproportionate to similar contracts with non-DBE entities. However, the determination of whether a DBE is performing a "commercially useful function" is still a subjective one. Moreover, there are few opportunities to appeal a determination that the DBE is not performing a "commercially useful function." This uncertainty, combined with lack of recourse, amplifies the need for contractors to be sure they are allocating DBE funds legitimately.

B. Compliance Failures Can Be Costly. Although the federal DBE programs are administered by participating states on a day-to-day basis, the federal government is increasingly engaged in policing the program for malfeasance and has an array of tools at its disposal for punishing misconduct. Contractors failing to observe program requirements risk severe financial ramifications in the form of fines as well as debarment from future federal and local contracts. Two examples from just the past year highlight not only the size, but also the relevance of these risks.

In June 2015, a former officer of RMD Holdings, Ltd d/b/a Nationwide Fence and Supply Co. (Nationwide) paid $358,707 to settle allegations that he personally violated DBE requirements in certain federally funded construction projects on which he served as a project manager. This personal liability came on top of $1.75 million paid by the company itself to settle allegations arising from the same circumstances. Nationwide claimed that a DBE company provided materials on federally funded projects. In reality, Nationwide had contracted with non-DBE material suppliers and directed the DBE company to them to make it appear as if the DBE company was furnishing materials. As part of these settlements, Nationwide and the former officer agreed to enter into administrative settlements and a three-year compliance agreement with DOT.

Just a few months later, in November 2015, Yonkers Contracting agreed to pay $2.6 million for violating the DBE program on a contract for a federally funded construction project. As part of the contract, the New York State DOT required an 8.03 percent DBE participation commitment, 31 percent of which was supposed to be completed by Global Marine Supply Co. through the supply of required steel. However, Global Marine simply resold steel obtained from a third-party supplier at a 1 percent markup with Yonkers' knowledge and consent. As Yonkers admitted as part of the settlement, this arrangement used Global Marine as a mere "pass through" entity of the sort prohibited by DOT regulations.

The recency of these settlements, when considered in light of their scale, should demonstrate the need for construction contractors to re-evaluate their subcontracting practices and to ensure that these practices are consistent with the relevant small business contracting rules.

C. Conclusions for Surety Professionals and Their Contractors. As seen above, the importance of compliance with federal subcontracting requirements is only increasing in today's environment. Construction contractors not already emphasizing small business contracting as an element of their compliance procedures run the risk of crippling financial penalties and would be well advised to re-evaluate their existing procedures before it is too late. Such re-evaluations should occur with an eye towards the following elements:

- Ensuring that relevant contract personnel are fully apprised of the particular requirements imposed on their contract(s);
- Maintaining an internal database of available DBE subcontractors to solicit for work;
- Avoiding the risk of pass-through transactions through development of an internal compliance checklist that addresses red flags, such as the use of joint employees, work beyond the DBE's capacity, and the use of joint/two-party checks for payment;
- Regularly comparing DBE contract pricing with non-DBE contracts to identify possible compliance breaches; and
- Updating internal practices to make modifications as needed.

With these measures, construction contractors can reduce their compliance risk in connection with federal small business subcontracting requirements.

W. Barron A. Avery is an attorney at Baker & Hostetler, LLP in Washington, DC, where he specializes in federal government contract law, including bid protests, claims litigation, regulatory compliance counseling, and investigative matters. Avery can be reached at 202.861.1705 or wavery@bakerlaw.com.
The author wishes to thank William B. O'Reilly, J.D., cum laude, Georgetown University Law Center, Class of 2015, for his contributions to this article.

Be sure to read Avery's next article in the Fall 2016 edition of *Surety Bond Quarterly* on the effect of Equal Employment Opportunity requirements in federal contracting.

Lynne W. Cook: Leading the Celebration of NASBP's 75th year

NASBP President Lynne W. Cook.

Cook unveiled NASBP's special 75th anniversary logo at the NASBP Annual Meeting in May.

I NEVER GET BORED; ONE MINUTE I'M WORKING ON BID BONDS FOR A SMALL CONTRACTOR AND THE NEXT MINUTE A WORKERS' COMP BOND FOR A FORTUNE 500 COMPANY.

WHEN LYNNE W. COOK agreed to become NASBP president for 2016–2017, she didn't realize that it would be the association's 75th anniversary year. But after getting over her initial surprise when it came up in a conversation three years ago, she began thinking about how NASBP should observe this year.

"It says 'celebration' to me, so the first thing that came to mind was that we're going to have a great party, because how many associations last 75 years and are still vibrant?" said Cook, Senior Vice President of Surety at Early, Cassidy and Schilling Inc. (EC&S) in Rockville, MD. "More recently, my Annual Meeting Program Committee came up with a theme: 'Building the bonds of surety: Honoring our past. Defining our future.'"

Cook herself has a 36-year perspective on the surety industry. A native of Lancaster, PA, she earned a paralegal degree and then a degree in economics from Penn State University. She surprised college recruiters by telling them that she wanted to go into surety; both a college counselor and a friend had recommended the field to her.

"My first job was with The Aetna Casualty and Surety, now Travelers," Cook said. "Its training program covered both contract and commercial surety, as well as crime and even some liability coverages. I loved it."

A meeting with U.S. Senator Ben Cardin's office during a NASBP Legislative Fly-in.

2016–2017 NASBP Officers: Third Vice President John N. Bustard, Second Vice President Robert E. Shaw, President Lynne W. Cook, Immediate Past President Susan Hecker, and First Vice President Howard Cowan.

Lynne Cook with her husband, Doug.

After working in Buffalo, NY, for a few years, Cook transferred to the DC area and specialized in commercial surety. When Travelers purchased Aetna, she left the industry for a year and then worked at the Surety Association of America before joining her current firm.

"EC&S's book of business is split between commercial and contract, and they needed somebody who could handle both," Cook said. "I never get bored; one minute I'm working on bid bonds for a small contractor and the next minute a workers' comp bond for a Fortune 500 company." She likes working with a wide variety of businesses on the commercial side and dealing directly with the owners and their management team on the contract side.

Cook and her husband, Doug, enjoyed raising their two sons, Benjamin and Samuel, in northern Virginia; and now they look forward to spending time with their three grandsons in Florida. Cook stays involved with members of the younger generation professionally, too, and mentors many of them. "I've been really fortunate to have a productive career, in a line of business that isn't well known. Somebody has to take the time to transfer that knowledge. It's very rewarding to see the people that I've trained become more successful than me."

Early, Cassidy and Schilling Inc. has a long history of involvement with NASBP, so Cook became active in NASBP when she joined the firm. In fact, Walter Schilling, second-generation owner, served as NASBP President in 1971. "NASBP members were always the agents of choice for doing business at The Aetna, because they were typically more professional and specialized in surety business," she recalled.

Cook started her NASBP activities as a member of the Commercial Surety Committee. "Steve Corey asked me to chair the committee in 2006. I began attending NASBP Board Meetings and teaching commercial surety at the NASBP School," she said. She eventually served on seven NASBP committees. "I wanted to know more about what everybody was doing."

Cook is happy to have played a role in highlighting the benefits that commercial surety brings to the industry; she helped get the Tiger Trust Award expanded to include that aspect of the business. NASBP and the Surety and Fidelity Association of America present this award to a person who has convinced an owner who had not intended to use a bond to do so.

During the coming year, Cook wants to continue the work of her

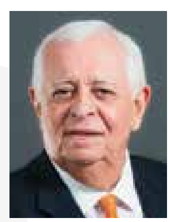
Continued on page 30

NASBP CPA Advisory Council Participants Share Insights on

Accounting, Tax, and Other Financial Issues

NASBP IS PLEASED to announce the new NASBP Certified Public Accountant Advisory Council (CPAAC). The CPAAC is comprised of certified public accountants with accounting, tax, other financial knowledge and experience in various relevant industries, including contract and commercial surety, construction, and government contracts. These distinguished CPAs who serve on the CPAAC comprise a valuable NASBP "resource team." They will provide articles for NASBP publications, including *Pipeline* and *Surety Bond Quarterly;* participate in NASBP Virtual Seminars; assist with the development of various online courses; and provide in-person presentations on various topics at the Annual Meeting, Regional Meetings, and special conferences and seminars.

As a brief introduction to this distinguished group, each has responded to a question posed on a current, compelling topic of interest to surety professionals.



Emilio F. Alverez
E.F. Alvarez & Company, P.A.
Miami, FL

Q What are some of the salient issues that get attention under the magnifying glass of a surety underwriter?

Answer: The number one issue is cash flow, and, consequently, anything that affects cash flow gets a lot of attention from surety underwriters. Underbillings affect cash flow in a negative way because they delay the moment of collection. Overbillings, on the other hand, bring in cash flow before the costs must be paid. However, if a contractor is overbilling and the money is not in the bank, the contractor is likely using the front-loaded money to pay for the costs of jobs that are either underbilled or losing money. Other issues related to cash flow are the relationship of receivables to payables; the contractor's debt load and its necessary debt service; the type of work the contractor is performing; and the kind of owner the contractor is working for.

The contractor's overhead also gets attention from surety underwriters. A company that is saddled with the type of general and administrative expenses that cannot be contracted or reduced and that signifies an inordinately high percentage of revenues will find it more difficult to become profitable than a contractor with low overhead, especially in a period of small gross profit margins.

A conservative attitude towards the recognition of revenue is always a trait welcomed by the sureties. That means the calculation of projected gross profit that is in keeping with the historical gross profit on the completed jobs. It means a sensible approach to the recognition of revenue on costs incurred performing unapproved change orders.

Jack Callahan
CohnReznick
Eatontown, NJ

Q What interaction should there be between surety bond producers and certified public accountants?

Answer: To thrive in today's competitive construction environment, contractors need to surround themselves with a core team of trusted advisors that can provide the insight needed to compel these contractors to ask, and have answers for, the really tough questions. The contractor's certified public accountant (CPA), surety bond producer, insurance agent (if not the bond producer), attorney, and banker should all specialize in working in the construction industry.

One critical step for the bond producer is to become familiar with the contractor's independent CPA and take the time to evaluate his or her knowledge of the construction industry. The CPA should be experienced in identifying critical financial statement issues related to the contractor's business. The contractor's financial statements must provide the detailed supplementary schedules that a surety company needs for underwriting. Additionally, in recognition of key independence and confidentiality issues, there should always be an open dialogue maintained between the CPA and the bond producer. This will help to ensure that all significant commitments and concerns are clearly communicated. With a core team of trusted advisors all communicating effectively, the contractor will most likely be in the best position to succeed.

Gehrig Cosgray
CliftonLarsonAllen, LLP
Calverton, MD

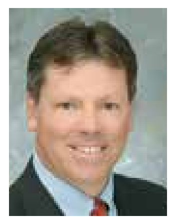
Q How often should a contractor address profit fade?

Answer: Profit fade analysis is a self-performance evaluation, and, consequently, a contractor often ignores a job's profit fade until it is too late to reverse the slide. Profit fade can occur for a number of reasons but typically is due to incomplete or overly optimistic estimated production or unit costs; underestimated labor or equipment rates; unbillable change orders or extra work; poor subcontractor performance; inadequate field supervision, resources, or training; and adverse weather conditions.

Adverse weather conditions are unavoidable; however, the other reasons can be addressed. Some best practices to assist management are the following:

- Review monthly job profitability reports and require an explanation for any job that is underbilled. Carrying inexplicable underbillings or believing that change orders will be approved despite continuing denial by the customer will often result in abrupt profit fade at the end of the project.
- Require management approval of work performed without an executed change order.
- Engage project managers in the process, as they will or should be the first to become aware of a profit fade and are in the best position to provide knowledge of the issues and means to reverse the trend.

Every contractor has or will experience profit fade. Proactively addressing it will not only help mitigate the impact, but also will enhance a contractor's credibility with its surety and banker.



Kevin Doyle
Lanigan, Ryan, Malcolm & Doyle, P.C.
Gaithersburg, MD

Q How will the new revenue recognition and lease accounting standards affect contractors? Are options available to a contractor to avoid the complexities of these new standards?

Answer: For calendar year-end privately held companies, the effective date of the new revenue recognition standard is 2019; and the effective date of the new lease accounting standard is 2020. To comply with the updated revenue recognition standard, contractors will have to evaluate their accounting systems to ensure that idle time/wasted materials and bid costs are not included in the percentage of completion calculation. Additionally, contractors will have to capitalize and amortize mobilization and other early contract costs. Virtually all contractors have leases that will require changes to their lease accounting method under the new lease standard, unless they own their own real estate or have a related real estate holding entity that is included in consolidated statements.

The accounting framework introduced by the American Institute of Certified Public Accountants in 2013 remains a potential option for contractors wishing to avoid the complications involved in adopting the new standards. This alternative to Generally Accepted Accounting Principles (GAAP) is called the Financial Reporting Framework for Small and Medium-Sized Entities (FRF for SMEs). FRF for SMEs retains traditional accounting for revenue and leases, along with several other differences from GAAP, with the goal of simplifying accounting standards.

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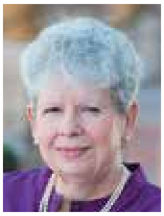
We have not seen significant use of this alternative in contractors' statements; however, the extensive changes involved with the new revenue recognition and lease accounting standards may stimulate additional interest in the FRF for SMEs.



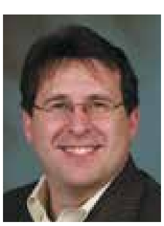
R. A. Bobbi Hayes
RPC CPAs + Consultants, LLP
Albuquerque, NM

Q How can a certified public accountant assist a construction business in minimizing and detecting employee fraud?

Answer: Construction contractors can be particularly vulnerable to asset misappropriation, both in the field and in the office. Smaller contractors typically have fewer resources than their larger competitors, and that situation more often results in fewer anti-fraud controls. Recent studies indicate that fraud schemes that are perpetrated generally have durations of 18 to 36 months before they are discovered, with recovery of losses in only 50% of cases.

The preparation of compilation level financials by a certified public accountant (CPA) requires no discussions concerning fraud, and the preparation of review level financials only requires minimal inquiries to owners about their active knowledge of fraud. Only at the level of audited financials does the CPA actively search for areas in which material misstatements could occur.

A CPA can be engaged separately to perform a variety of consulting services such as the following: (1) targeted fraud awareness training for employees and managers; (2) assessment of internal controls and segregation of duties and recommendations for improvements; (3) assessment of the specific fraud schemes that pose the greatest threats to the business; and (4) education about which control mechanisms are the most cost effective, such as hotlines and setting a proper ethical tone.

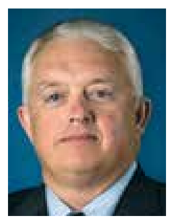


David V. Jean
Albin, Randall & Bennett
Portland, ME

Q How can contractors improve their estimating process to capture overhead?

Answer: One of the most common issues that leads to poor estimating is the lack of an internal standardized estimating process that is clear and consistent. Some construction companies have sales people who also function as estimators. Others have both estimators and sales people. And in many other cases, project managers are also heavily involved in estimating. Improving the accuracy of estimating starts with evaluating and standardizing the process and identifying areas of weakness. Is one project manager bidding on jobs without consulting with the sales person? Is the company president involved, yet not working directly with estimators?

One recommended solution is for contractors to focus on standardization by developing a "master template" or standardized estimating model to promote consistency and capture all possible line items in the estimate. The model or template should include all possible cost line items and serves as a reminder (checklist) to make sure all costs are captured in the estimate. Contractors should clean up any internal communication issues and find an estimating process that everyone uses consistently. Often, using construction industry specific estimating software and approved master templates alleviates these inconsistencies internally. Another simple solution is to conduct a "sanity check" on estimates to ensure that the estimate is reasonable. This also allows time for a second set of eyes to review the numbers, which is extremely important to ensuring the accuracy of the estimating process.



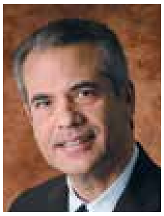
Tim Wilson
BKD, LLP
Kansas City, MO

Q What are some of the top risk issues on which a contractor needs to be focused for 2016–17?

Answer: No matter what size a construction company is, the executive leadership team should discuss what business risks they face as a company and develop strategies to mitigate these risks. It's not always a risk that can be insured. Some of the key business risks that construction companies should consider and address in planning a successful business strategy for 2016–17 include the following:

1. Preparing for workforce issues, such as employee retention, training (both safety and professional), recruitment, and compensation, is crucial for the success of the company. A well thought-out strategy to mitigate these risks can help minimize the impact when a key employee decides to leave the company (many times to a competitor).
2. Every contractor in today's environment is dealing with additional investments in technology, both in the home office and the field. Whether it is using mobile devices to record time or replacing entire computer systems, contractors are faced with increasing complexity and costs for technology.
3. Balance sheet management is critical to the success of a construction company. Many construction companies are experiencing an increase in contract activity, which can create stress on the balance sheet of the company. As revenue goes up, often contract accounts receivable and retention go up. The company, however, still has to make payroll, pay material suppliers and subcontractors, and address

other obligations impacting bank credit lines, bonding capacity, and vendor relationships.



Julian Xavier
GALLINA, LLP
Walnut Creek, CA

Q What makes a best-in-class contractor from a financial statement perspective?

Answer: Some key metrics that best-in-class contractors have achieved, which provide comfort not only to their banks and sureties but also to their shareholders, are:

Working capital (current assets less current liabilities) is a key measure of a contractor's liquidity available to perform and complete its contracts. Tangible working capital should be in excess of 7.5% of annual revenues (tangible working capital excludes from current assets items such as prepaid expenses, old receivables, related party receivables, underbillings, and other intangible assets).

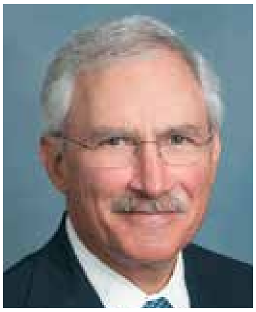
Certain items should be excluded from tangible equity, including any goodwill, prepaid expenses, and related party receivables. Additionally, many contractors will deduct items such as the deferred tax liability that will pass through to corporation owners and operating lease commitments that aren't recorded on the balance sheet. Best-in-class contractors should have tangible equity in excess of 10% of revenue.

Overall overbilled position on projects with underbillings on jobs more than 50% complete should be kept to a minimum. Additionally, net overbillings should be "in the bank," indicating that the contractor has done a good job of keeping sufficient funds available to take care of the turn in the overbilled position. Overall overbillings should be at least 2% of annual revenues.

Interest-bearing debt as a percentage of equity should be kept to 50% or less for a labor-intensive contractor and less than 80% for a heavy equipment company. Additionally, total debt (all liabilities) to equity ratio should be less than 3 to 1 for a heavy equipment company and 4 to 1 for a general contractor.

Feature

Six Considerations in Underwriting Subdivision Bonds (Part 1 of 2)



BY ARMEN SHAHINIAN AND BETH J. ROTENBERG

LAND DEVELOPMENT LAWS, which regulate land use and subdivision growth, are commonplace in most states, counties, and local municipalities (Public Agency). These laws and regulations (Statutory Scheme) allow the Public Agency to control the design and improvements of subdivision developments to assure consistency with local public health and environmental standards, and to coordinate subdivision planning (lot size, configuration, street patterns, and utility easements), as well as overall community planning. Most importantly, the Statutory Scheme ensures that the developer properly installs streets, sewers, lighting, sidewalks, and drains prior to their dedication to the Public Agency and its taking over their maintenance. Ultimately, the Statutory Scheme is designed to prevent the subdivision from becoming an undue burden on the community and local taxpayers. In the course of this two-part series, we will examine the basis for and the scope of subdivision bonds, as well as six important considerations in underwriting these types of bonds.

The subdivision agreement and the subdivision bond

Obtaining approval from the Public Agency, whether through a subdivision map, permit, or otherwise, is often the initial step a developer must take in developing a parcel of real property. Prior to the development of unimproved land, the Public Agency, as part of the Statutory Scheme, often requires a developer to enter into a Developers Agreement (Subdivision Agreement). The Subdivision Agreement will generally require the developer to construct improvements required by the Public Agency as part of the Statutory Scheme and will set forth the time within which the improvements must be completed. To ensure the faithful performance of the required subdivision improvements, including liability for changes or alterations in the work, before issuing a subdivision map or other required permit, the Public Agency may require the developer, as principal, to post security, usually in the form of a Subdivision, Developers or Plat Bond (Subdivision Bond) acceptable to the Public Agency, as obligee. The Statutory Scheme may specify the form and content of the Subdivision Bond, or additional or other financial assurance (that is, letters of credit, certificates of deposit, etc.) to be submitted.

While Subdivision Bonds uniformly provide assurances to the Public Agency if a developer defaults on its obligations under a Subdivision Agreement, there are differences in Subdivision Bond forms. Typically, Subdivision Bonds are indemnity bonds requiring performance or payment up to the bond penalty from a surety if a developer defaults on its obligations under the Subdivision Agreement. In some jurisdictions, Subdivision Bonds are treated as either pure forfeiture bonds or financial guarantee bonds, and some jurisdictions also require a Subdivision Payment Bond, guaranteeing payment to laborers, subcontractors, and material suppliers.

The amount of security required to secure performance of the obligation under a Subdivision Agreement is determined by the Public Agency, generally within a prescribed monetary range. For example, the portion of the security that guarantees faithful performance of the completion of the improvements under the Subdivision Agreement (that is, the Subdivision Performance Bond) is generally calculated as a percentage of the total estimated cost of the improvements to be installed; such costs are frequently determined by an engineer on staff or retained by the Public Agency. In some instances, however, the developer may prepare the estimate of costs to construct the public improvements. The Subdivision Payment Bond, which secures payment to the contractor, subcontractors, laborers, and materialmen, is generally required in an amount not less than 50 percent and no more than one hundred percent of the total estimated cost of the improvements. In addition to the base cost of the improvements, the security often covers costs and reasonable expenses, including attorneys' fees that the Public Agency may incur in successfully enforcing the secured obligation.

Underwriting considerations

Often the ability of the surety to avoid future claims on Subdivision Bonds starts with the underwriting process. Avoiding exposure to loss on Subdivision Bonds requires monitoring and communication with the developer-principal, not only at the underwriting stage, but also throughout the course of the project.

1. **Become familiar with the statutory scheme.**

   What are the timing provisions for completion under the Statutory Scheme? For what public improvements is the developer specifically responsible? A surety may be liable where it voluntarily executes a Subdivision Bond of broader scope than that contemplated by the Statutory Scheme. For example, in *Mount Florence Group v. City of Peekskill*,[1] under the Statutory Scheme, the term of a Subdivision Bond could not be longer than three years, subject to extensions upon agreement of all parties. The Subdivision Bond at issue, however, had no specified term. The court held that the surety was bound by the more liberal language in the Subdivision Bond it executed. Accordingly, because the surety voluntarily agreed to execute a broader bond, claims against the Subdivision Bond could be made beyond the three year limitations period provided in the Statutory Scheme. As a further example, in *Board of County Supervisors of Prince William County v. Sie-Gray Developers, Inc.*,[2] the court held that, although the Statutory Scheme did not require the developer to make certain improvements to a state highway running along the subdivision as a condition of subdivision approval, where the developer agreed to widen the highway on its own, it (and the surety) were required to perform accordingly. In some jurisdictions, however, the courts will not enforce Subdivision Bonds that require installation of improvements beyond the scope of what the Public Agency is allowed by the statutory scheme to require as a condition to subdivision approval.[3] Thus, before executing the Subdivision Bond, it is important to know the exact requirements for the Subdivision Bond and the improvements under the Statutory Scheme, and to also include the statutory language, where appropriate, in the Subdivision Bond.

2. **Become familiar with construction costs and funding obligations.**

   The developer assumes responsibility to fund the costs of constructing or placing the subdivision improvements required by the Public Agency, and the Public Agency has no obligation to pay the developer for the cost of the subdivision improvements. From the surety's perspective, the requirement that the developer fund the subdivision improvements should be a critical part of its underwriting evaluation, and the following should be considered:

   A. Estimated costs of completion

   Has the developer properly estimated the costs necessary to complete the improvements? The Public Agency generally provides engineer's estimates for these expenses. The underwriter should attempt to ascertain the accuracy of the engineer's estimates and whether there are any major deviations between the engineer's estimates and the amount the developer has budgeted for completion.

   B. Funding of subdivision improvements

   Has the developer set aside sufficient funds to complete the subdivision improvements? Ascertaining the precise source of payment and the procedure to be followed in funding the subdivision improvements is an essential underwriting consideration. If a project is to be self-funded by the developer, the surety must be assured that the developer has committed sufficient funds to complete the required improvements. If a project is to be financed through a bank, the surety should request, and attempt to obtain, a Set Aside Agreement or other financial arrangement from the bank, which ensures that, as part of its commitment to fund the entire project, the bank has segregated sufficient funds to be used solely for the completion of the subdivision improvements.[4] In addition, the underwriter should consider continuing to monitor the financing of the project to ensure that the developer and the bank are complying with their obligations under the Set Aside Agreement (or other financial arrangement) to use the funds set aside to pay for the completion of the subdivision improvements. ●

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References:

1. 652 N.Y.S.2d 814 (App. Div. 1997).
2. 334 S.E.2d 542, 546 (Va. 1985).
3. New Jersey Shore Builders Ass'n v. Twp. of Marlboro, 591 A.2d 950 (N.J. Super. Ct. App. Div. 1999).
4. For additional information regarding the form of and issues which may arise in negotiating Set Aside Agreements, see Patricia J. Frobes, *Selected Issues in Secured Construction Lending*, in *REAL ESTATE FINANCING DOCUMENTATION STRATEGIES FOR CHANGING TIMES* 155, 157 (Am. Law Inst. 2007).

For a more comprehensive discussion of the issues raised in this article, see Susan M. Moore, et al., *Law of Developers or Subdivision Bonds*, in *THE LAW OF COMMERCIAL SURETY AND MISCELLANEOUS BONDS* 33 (Bruce C. King, et al. eds., 2d ed. 2012).

Be sure to read part two of this article in the Fall 2016 edition of *Surety Bond Quarterly*, which will discuss the importance of four additional considerations: monitoring work progress; monitoring the developer's financial status; communicating with the developer; and communicating with the financing bank.

Feature

NASBP CEO Mark McCallum Receives Industry Recognition

Honored by *ENR* as a Top 25 Newsmaker of 2015

SURETY BONDS FOR federal construction contracts issued by individual sureties will be much less susceptible to fraud due to the work of the National Association of Surety Bond Producers (NASBP) and its Chief Executive Officer, Mark H. McCallum. These efforts resulted in McCallum's selection as a Top 25 Newsmaker of 2015 by *Engineering News-Record (ENR)*. He was recognized for his role in championing federal legislation to end pervasive individual surety fraud in federal contracting by changing the asset rules applying to individual surety bonds. The new law requires individual sureties to back their bonds with only safe, secure assets placed in the government's custody.

"When I first learned of the urgency of individual surety fraud three years ago, I knew NASBP; and, from time to time, I had interviewed its members, but I didn't know Mark," Deputy Editor of *ENR* Richard Korman said. "Nor did I know that NASBP and Mark had been fighting individual surety fraud and defending themselves over their efforts for several years," he added.

"Mark's passion for the cause, his commitment to his membership, and his endless patience in dealing with me—after all, I had never read an AIA bond form before—helped inspire me to go deeply into the subject and investigate the depth of the problem," Korman said.

"This important reform, which benefits the entire surety and construction industry, could not have been accomplished without him," Korman said.

McCallum also sees this as a win for the industry. "It was a great testament to NASBP and to the surety industry to make sure that a regulation that allowed fraudulent activity was addressed," he said. "There were situations where businesses of all sizes were being victimized by unscrupulous individuals who were acting under the existing federal regulations. The federal government wasn't doing the due diligence it should have, allowing individuals to post bonds without any assets behind them, unbeknownst to the construction company paying the premium."

Gaining the attention of federal legislators on this important but admittedly obscure issue was no easy task, relates McCallum. "*ENR* did a tremendous service for the construction and surety industries by publicizing the need to address this persistent problem in a way that allowed people to understand what was at stake," McCallum noted. "They made sure the problem was not going to labor in obscurity. We are indebted to them for their critical news coverage. NASBP is also indebted to a coalition of design and construction groups that joined voices with us to advocate for passage of the legislation."

All 25 newsmakers were recognized during the ENR Award of Excellence event in New York City on April 7. In addition, Korman presented the award to McCallum at the NASBP Annual Meeting on May 16 in Colorado Springs.

Long-term effort

"Since my first day at NASBP, individual surety has been a professional issue that needed to be addressed," McCallum recalled. On that day, the Maryland General Assembly was considering legislation to allow an individual surety to provide bonds on state public works contracts without being subject to oversight by the state insurance commissioner. Although NASBP opposed the measure, the bill became law, but was allowed to sunset in 2014 after a lengthy lobbying campaign by NASBP and over the objections of individual surety proponents. On that same first workday, McCallum also learned NASBP was being sued by individual sureties operating at both federal and state levels who alleged the association had defamed them in its newsletter, an allegation NASBP vigorously disputed. McCallum credits these initial experiences with solidifying his resolve to address individual surety problems.

After years without success in getting the regulation changed through federal regulatory channels, NASBP decided to persuade Congress to change the underlying law. It took more than six years and

At the 2016 NASBP Annual Meeting, *Engineering News-Record (ENR)* Deputy Editor Richard Korman, right, presented NASBP CEO Mark H. McCallum, center, with an award for being chosen by ENR as one of the Top 25 Newsmakers of 2015. President Susan Hecker, left, said NASBP was extraordinarily honored that McCallum had been selected to receive this prestigious award, and the Association was proud that NASBP's advocacy efforts, championed and led by McCallum, were acknowledged in this way.

three Congresses to make that happen. "NASBP has always taken the position that every surety insurer, whether a natural person or a corporation, needs to be regulated by the insurance commissioner in the state in which the surety conducts business by obtaining a certificate of authority to act as a surety," said McCallum. "Federal contracting was a loophole because it did not require a certificate of authority issued by any state jurisdiction for natural persons (individuals) to act as sureties on federal contracts.

"Surety is not well understood, even sometimes by those who use surety bonds," he noted. "When we went to Congress, we had to explain a fairly complicated situation in simple terms, emphasizing the importance of taking action. Many NASBP members contacted congressional offices to explain individual surety problems, how companies and taxpayers were being harmed, and why fixing it was important." McCallum gave special thanks to Representative Richard Hanna (R-NY), a former contractor, who understood the importance of surety credit to contractors and of maintaining the integrity of surety bonds in federal procurement. He was a strong advocate for what NASBP was trying to accomplish and helped by introducing legislation and by holding congressional hearings.

"NASBP also collected instances of where fraudulent individual surety bonds had caused problems all over the country and told the congressional offices in those areas about those problems," said McCallum. "We wanted to tell the story in terms of the impact on small businesses, which really depend on the efficacy of the payment bond being in place. The U.S. House Judiciary Committee had jurisdiction. We told them how such problems were an injustice and ultimately defrauded taxpayers who had to pick up the excess costs for hiring new contractors to finish defaulted jobs."

Praise from industry leaders

Industry leaders see McCallum as a worthy recipient of this recognition. "Mark is a great advocate for the industry," said American Subcontractors Association Chief Advocacy Officer Colette Nelson. "His work on reforming the surety bond asset rules is consistent with the efforts he has made working with us on many issues to ensure payments to subcontractors."

"What Mark has accomplished means our members will be better protected from losses from fraud going forward," said Stuart Binstock, president and CEO of the Construction Financial Management Association. "Knowing their surety bonds on federal projects are backed by real assets will reassure contractors."

Extensive background in construction legal issues

A graduate of Vanderbilt University and Tulane Law School, McCallum's career has focused on improving legal protection for construction industry stakeholders. He began his work at NASBP as General Counsel and Director of Government Relations, directing the association's government relations, industry relations, legal, and other functions before becoming its chief executive officer.

Prior to joining NASBP, he was Senior Counsel and Executive Director of Programs and Industry Relations with the Associated General Contractors of America. Before that, McCallum was Associate Counsel, Contract Documents at the General Counsel's Office of the American Institute of Architects, providing counsel and advice on the development of AIA standard forms and on design and construction liability matters.

Concerns about individual sureties continue

NASBP remains vigilant in fighting state legislation that would wrest control away from state insurance commissioners regarding individual surety bonds and behavior. McCallum would like all states to consider adopting more stringent laws to prevent individual sureties from acting without proper licensing or authority.

New IRS Certification Program Could Mean More Business for Producers, Sureties That Write Employer Bonds

BY CORBAN ENNS

DUE TO A new federal bond requirement, bond producers and underwriters that write employer bonds may experience a surge of new clients—human resource-outsourcing companies, also referred to as professional employer organizations (PEOs). The affordable services of PEOs, such as the management of employee benefits, payroll, taxes, worker's compensation, and retirement plans, are appealing to many small businesses.

Pat Cleary, President and CEO of the National Association of Professional Employer Organizations (NAPEO), explained that PEOs are *not* temporary employment service agencies. "We come in and co-employ [your] employees," said Cleary. "We take your employees as we find them. We don't staff; we don't cherry pick them—we take who you have and do payroll, benefits, taxes, and [more]." These PEOs often manage risks and liabilities related to personnel functions of small businesses' worksite employees by monitoring new employer requirements and by developing policies and procedures for these small businesses' employees.

The new bond requirement is part of a voluntary certification being established by the Internal Revenue Service (IRS) for PEOs, and NAPEO is pleased. "PEO is the rarest of industries in the sense that we have fought for regulation; most industries want less regulation, but we have fought for more," said Cleary.

Thom Stohler, Vice President of Federal Government Affairs at NAPEO, said that NAPEO, the Surety & Fidelity Association of America (SFAA), and the IRS worked together to create this new voluntary PEO certification, because many PEOs wish to be certified (CPEOs) and have statutory authority to collect and remit federal employment taxes under their Employer Identification Number (EIN) for wages they pay to worksite employees.

"The bond is critical to obtaining the certification; it guarantees that the company is reputable," said Stohler.

To maintain this certification, the PEO must post a bond each year in an amount up to 5% of the PEO's federal employment tax liability in the preceding calendar year, up to a ceiling of $1 million. The bond amount must be at least $50,000. The requirements to maintain certification are described at the NAPEO site (see https://www.napeo.org/sbea).

The IRS has indicated that it plans to begin accepting applications for PEO certification beginning July 1, 2016. The IRS continues to work to set up this new voluntary certification program to identify and define the policy, procedural, and information system changes necessary to meet the requirements of the new law (see https://www.irs.gov/businesses/small-businesses-&-self-employed/voluntary-certification-program-for-professional-employer-organizations).

Small Business Efficiency Act (SBEA)

In December 2014, President Obama signed the Small Business Efficiency Act (SBEA), which included provisions providing for PEOs being written into the IRS code and establishing a voluntary certification program for PEOs (see https://www.irs.gov/businesses/small-businesses-&-self-employed/voluntary-certification-program-for-professional-employer-organizations). The federal law requires PEOs to meet a number of requirements, including bond and independent financial review requirements (see https://www.congress.gov/bill/113th-congress/house-bill/5771). The IRS continues to work to set up this new voluntary certification program to meet the requirements of the new law that balances customer service with the interests of tax administration.

The following is the SBEA bond language in the new federal requirement of 26 IRC § 7705(b) from Title 26-INTERNAL REVENUE CODE Subtitle F-Procedure and Administration CHAPTER 79-DEFINITIONS: http://uscode.house.gov/view.xhtml?req=(title:26%20section:7705%20edition:prelim)

(c) BOND AND INDEPENDENT FINANCIAL REVIEW.—

(1) IN GENERAL.—An organization meets the requirements of this paragraph if such organization—

(A) meets the bond requirements of paragraph (2), and

(B) meets the independent financial review requirements of paragraph (3).

(2) BOND.—

(A) IN GENERAL.—A certified professional employer organization meets the requirements of this paragraph if the organization has posted a bond for the payment of taxes under subtitle C (in a form acceptable to the Secretary) that is in an amount at least equal to the amount specified in subparagraph (B).

(B) AMOUNT OF BOND.—For the period April 1 of any calendar year through March 31 of the following calendar year, the amount of the bond required is equal to the greater of—

(i) 5 percent of the organization's liability under section 3511 for taxes imposed by subtitle C during the preceding calendar year (but not to exceed $1,000,000), or

(ii) $50,000.

NAPEO anticipates that, as a result of the new certification requiring a bond, hundreds of new bonds may need to be placed for existing PEOs once the IRS completes setting up the certification program. Approximately 40 states require a PEO to go through a licensing or registration process and roughly 20 of those states require a state license and permit surety bond, according to NAPEO's research. NAPEO estimates 700 to 900 PEOs are in business.

See the white paper on PEOs by Corban Enns at www.nasbp.org. To learn more about the trade association for PEOs, visit NAPEO at www.napeo.org. Also, view Surety Solutions' article on the new law, titled "NEW LEGISLATURE FOR PEOs WILL REQUIRE ADDITIONAL BOND—And this is good."

Corban Enns is founder and president of the NASBP member firm of Surety Solutions LLC in Salem, OR. Since its inception in 2004, Surety Solutions has helped place, write, and manage over 30,000 mortgage broker and lender bonds. Enns has also collaborated with various state agencies to create or modify mortgage bond obligations to meet the requirements of new legislation. He can be reached at corban@suretysolutionsllc.com and 503.363.6889.

PREPARE for the Next Evolution in Mortgage-Related Bonds

NMLS will soon be the primary system for bond issuance and tracking

CHANGES ARE ON the horizon for surety bonds in the financial industry. The role of the Nationwide Multistate Licensing System (NMLS) is expanding, and the impacts on mortgage-related bonds and the agents and underwriters that provide them are already starting to take shape. Understanding where changes are happening, when each phase of the new process will roll out, and how the transition will affect producers' workflows will be the key to keeping pace with the switch to digital bond management.

Enhanced accuracy, improved productivity part of NMLS changes

Launched as part of the 2008 Secure and Fair Enforcement for Mortgage Licensing Act, more commonly known as the SAFE Act, NMLS brings under one umbrella much of the recordkeeping necessary to oversee licensure across the country. "In NMLS, we manage nearly 600 license types on behalf of 61 state and territorial agencies that supervise a variety of non-depository financial services," said Tim Lange, Senior Director of Policy at the Washington, D.C.-based Conference of State Bank Supervisors (CSBS). Created by CSBS and the American Association of Residential Mortgage Regulators, NMLS is owned and operated by a CSBS subsidiary, the State Regulatory Registry, and has become the official system of record for a large majority of state agencies.

Nearly eight years of active operations have revealed opportunities to improve the system, and NMLS has increased efficiency in several areas within the license application process. Examples include uniformity across multiple states' licensing application forms and the streamlining of the criminal background check process for licensees. Lange said the improvements don't stop there. "The system also allows participants to provide a single financial statement upload to all states," he explained, adding, "Overall, it has eliminated a lot of duplication."

The SAFE Act of 2008 mandates that anyone engaged as a mortgage loan originator (MLO) be licensed and registered. Corban Enns, owner of Surety Solutions, LLC, in Salem, Oregon, and chair of the NASBP Commercial Surety Committee, said that, accordingly, the comprehensive data stored in NMLS functions as a crucial component in maintaining MLO records. "It provides a method to reduce fraud while also facilitating better information sharing and vetting between regulators." With many of the participating states having a requirement for the surety bond as part of the licensure process, NMLS gives regulators a way to confirm that licensees are who they say they are, and that anyone creating a surety bond is authorized to do so. Regulators are also provided better tools within NMLS to spot potentially fraudulent bonds, a task that can be extraordinarily difficult when relying on unverified data or information from multiple sources.

Lange is quick to point out that NMLS doesn't conduct the initial vetting of surety companies or producers. "We are not acting in a licensing role for the sureties," he said. "We're simply taking information that our fellow state regulators within the insurance side have already validated and vetted, and we're using what they've done to help ensure the information that comes to us is accurate."

Get on board with Phase I, prepare for Phase II

Phase I of the NMLS Electronic Surety Bond Tracking initiative began in January 2016. "It has entailed giving surety companies and surety bond producers an opportunity to create an account in the system," Lange explained. "They provide a basic application with information about their company and some supporting documentation, which we then review and validate against the NAIC [National Association of Insurance Commissioners] database." By verifying company names, employers' tax numbers, and other identifying information, NMLS is able to confirm a participant's authority to operate in the various states.

Not only will producers and surety companies each need an account in NMLS, but also producers must link their accounts to each carrier for whom they are authorized to act. It's an important step, which Enns said producers should be taking now to prepare for the next step, which is scheduled to roll out in July 2016. "Agencies should connect with carriers to ensure that accounts can be properly associated in NMLS as they are created," he said.

Organizations that complete Phase I with the creation of their accounts and the designation of their authorized associations will then be ready to tackle Phase II, which will incorporate electronic issuing and tracking of surety bonds. "The surety bond initiative is meant to bring a lot of the data that is within NMLS into the surety bond process and use that data as bonds are being created," Lange said. "In order to create a bond in a state whose agency is requiring this, they will need to enter information on the bond into NMLS, whether it's through manual entry or via a feed from another system."

Changes aren't planned to the surety guarantee and state licensing processes, which will remain as they are today; but Enns said the procedures for issuing and servicing bonds will look much different after Phase II of the surety bond initiative is complete. "Name change riders, for example, will no longer be needed in order to resolve syntax errors," he said. "That's something that will be addressed with the use of standardized data attached to the unique NMLS account identifiers." A final close-out date for Phase II hasn't yet been determined, but surety bond producers should be prepared for other transitions that will also occur once the documentation becomes fully digital, such as the elimination of embossed seals and notary acknowledgements.

A work in progress

NMLS has a working group comprised of licensees, surety industry professionals, and regulators who contribute their expertise on how best to structure the system. Feedback will continue to be solicited throughout Phase I and Phase II of the Electronic Surety Bond Tracking implementation to determine where the process may benefit from tweaking. "I would encourage people to reach out to NASBP or to us if they would like to participate in that working group," Lange said. "We're always looking for additional folks to provide input on the process."

Enns will spearhead much of the discussion between NASBP and CSBS as Phase I and Phase II changes are implemented. "The NMLS working group offers a great way for NASBP members to get more information on the transitions that are coming and to offer their insight on how the surety bond process can continue to be improved," he said. As paper bonding evolves into the all-digital realm, producers and others working in the surety bond industry have an obligation—and an opportunity—to help shape the process for tomorrow.

NMLS Resources

NMLS White Paper by Corban Enns
www.nasbp.org
This white paper offers insight and facts about NMLS from a bond producer's perspective.

The NMLS Resource Center
Go to http://mortgage.nationwidelicensingsystem.org/about/Pages/default.aspx.
The NMLS website offers information on setting up new accounts, creating associations between carriers and producers and tips to smooth the process of uploading different file types into the platform as part of the setup.

NMLS Surety Bond Working Group
Learn about and consider participating in the NMLS Surety Bond Working Group by contacting Corban Enns of Surety Solutions, LLC at corban@suretysolutionsllc.com and 866.722.9239 or Tim Lange of Conference of State Bank Supervisors and State Regulatory Registry at tlange@csbs.org and 202.728.5734.

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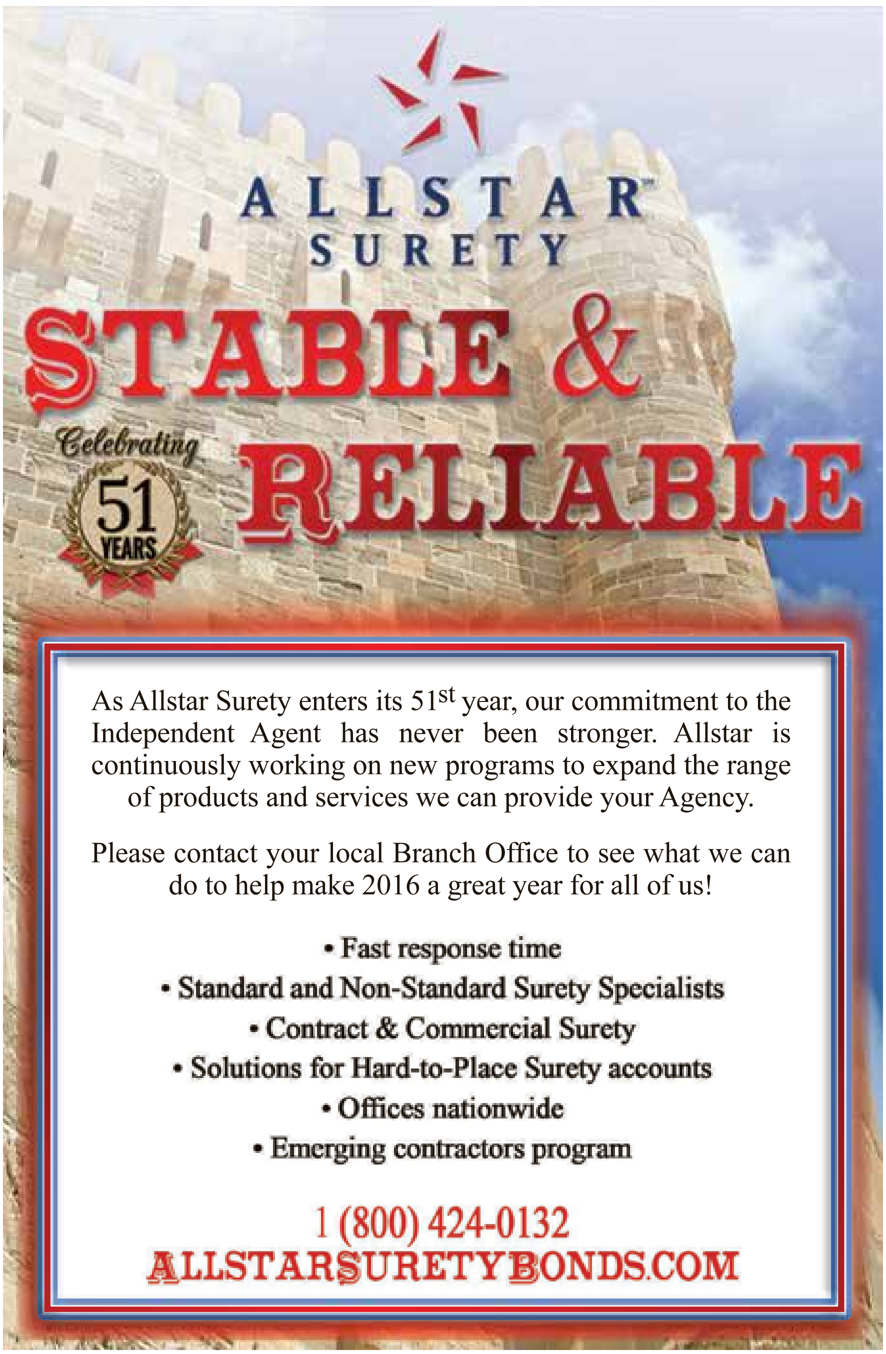

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predecessor, Susan Hecker, in getting young professionals more involved in NASBP. She plans some specialized programming geared toward this group at regional meetings.

She also hopes to spread the word about surety, especially to owners. “As the construction industry continues to change, it is incumbent upon the leaders of our industry to ensure that our product remains relevant. I’d like to provide a forum for surety professionals to do so,” she said.

Cook, who unveiled NASBP’s special 75th anniversary logo at the NASBP Annual Meeting in May, promises both nostalgia and a look into the future at the 2017 meeting.

“My Annual Meeting Program Committee and NASBP staff are helping me plan a very special event. We will honor the volunteers and staff that shaped today’s organization and take a look at our advocacy and educational successes, while providing a thought-provoking glimpse into the future, and of course, enjoy one great celebration!”

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