

NASBP Board of Directors Meeting – April 21, 2013

Fairmont San Francisco, San Francisco, CA

NASBP Committee Report

Committee Name: Industry Relations Committee

The Industry Relations Committee increases the Association's outreach to and presence with construction industry associations, focusing specifically on organizations whose membership includes those that require, purchase, or are the beneficiaries of surety bonds. The Committee seeks opportunities to convey the importance of surety bonds and the role of the bond producer through various means including sponsorships, speaking engagements, and the dissemination and placement of articles and other materials.

Committee Chair: Patrick Pribyl

Summary of Committee's Activities/Accomplishments: November 2012 - April 2013

AAA

- NASBP CEO Mark McCallum participated in the December meeting and is planning on participating in the June 2013 meeting of the **National Construction Disputes Resolution Committee**, an advisory body to the American Arbitration Association on mediation and arbitration procedures for the construction industry, specifically to discuss alternative dispute resolution initiatives in the construction industry.

AGC

- Attended the **2013 annual AGC Surety Bonding/Construction Risk Management Committees Meeting** held in February in Naples, Florida. NASBP President Carl Dohn of Dohn & Maher Associates and Director of Government Relations Larry LeClair attended the event and participated on a panel summit on bonding where about 50 construction and surety industry representatives were in attendance.

AGC of San Diego

- NASBP First Vice President Larry McMahan of Alliant presented to a group of 40 contractors at a meeting of the **AGC of San Diego**. His presentation focused on the surety market.

- Sponsoring the **2013 AGC Federal Contractors Conference (Fed Con) meeting** that will be held **April 25-27, 2013** in Washington, DC. For a third year in a row, the NASBP logo will be emblazoned on the side of the tote bags provided with registration materials. NASBP CEO Mark McCallum and NASBP Director of Government Relations Larry LeClair plan to attend. The meeting, held by the AGC Federal & Heavy Divisions, is where AGC contractors and federal agency personnel meet to review procurement and contracting issues.

- NASBP CEO Mark McCallum met in December with AGC's Sr. Counsel for Construction Law & Contracts Brian Perlberg and the Sr. Executive Director of Business Development Chris Monek to discuss joint initiatives both organizations could pursue.

AIA

- NASBP continues to provide feedback to the **American Institute of Architects (AIA)** on drafts of their contract documents. Recently NASBP provided comments on drafts of AIA's construction management documents and the appropriate use of bonding for CM agreements. Last year NASBP provided written comments to AIA regarding surety exposure involving green building/sustainability contractor requirements and on the AIA guide for sustainable projects, **AIA Document D503™-2011**. CEO Mark McCallum entered into a confidentiality agreement with AIA to provide AIA written comments on draft agreements for these AIA documents.

AICPA

- Promoted the **American Institute of Certified Public Accountants National Construction Industry Conference** that was held Dec 2012 in Las Vegas. NASBP, again for the third year in a row, obtained a \$100 discount for the NASBP membership. Members, affiliates, and associates were able to receive the discount on their registration fee to the Conference by using the Promo Code, SCX. The discount applied to both AICPA members and nonmember registrations. NASBP Associates David Pesce, Emilio F. Alvarez, Julian Xavier participated in presentations about surety at the Conference.

Associated Builders & Contractors Chapters and Am. Subcontractors Association

- The **Maryland Associated Builders & Contractors (ABC) Chapters** and the **DC Metro American Subcontractors Association, Inc.** joined NASBP in opposing MD legislation that as originally introduced, would

have allowed individual entities to provide bonds at the subcontract level. After NASBP's extensive lobbying efforts and discussions with the bill's proponents, this provision was removed from the bill. In its place, the state must provide additional information to contractors on the types of securities accepted at the prime level, which include corporate bonds, bonds furnished by the Maryland Small Business Development Financing Authority (MSBDF) and individual sureties, as permitted under existing state law. SB 599 was sent to the Governor for his signature.

CFMA

- NASBP CEO Mark McCallum met in December with **CFMA's** Executive Director Stuart Binstock to discuss joint initiatives both organizations are currently pursuing and new initiatives to undertake together in 2013.

- Agreed to enter an agreement with **Construction Financial Management Association (CFMA)** where once again NASBP will display an advertisement in CFMA's Building Profits magazine in trade for a booth space for CFMA to exhibit at the NASBP 2013 Annual Meeting. The NASBP ad, promoting the value of NASBP membership and joining the Association, will display in the magazine's September/October issue that is themed "Risk Management" and that will be distributed at IRMI's and at AICPA's construction conferences held later this year.

- In February, NASBP and **CFMA** jointly submitted comments in response to an **IACPA** proposal to create an alternative financial reporting framework for small and medium-sized enterprises. The comments reference Darrin Weber's work with CFMA as a NASBP liaison in the effort to analyze and develop a response to IACPA on the issue and thank Weber for his participation on the CFMA Committee. NASBP provided the membership and the Committee a copy of the joint comments in a Pipeline article.

- Entered an agreement with **CFMA** that enabled NASBP Members, Affiliates, and Associates to receive a discount on their purchase of the CFMA Benchmark tool for comparing clients' companies' financials with those of participants in the survey. The discount extends until April 30, 2013.

ConsensusDocs Program

- **ConsensusDocs Program** – NASBP promoted the free subscription package of administrative ConsensusDocs forms and promoted the discount on ConsensusDocs Webinars on these topics: . NASBP is an endorsing member of the ConsensusDocs effort. Since the fall, staff participated in three conference calls and attended a meeting of the ConsensusDocs marketing and the drafting task groups.

CSI

- Presented in January at the **CSI Master Specifiers Retreat** in Tucson, AZ. NASBP Member Bette Botticello of Smith Brothers Insurance, Affiliate Mark Fitzgerald of Penn National Insurance, and NASBP CEO Mark McCallum made a presentation on specifying risk management requirements and on surety bonds. About 40 specifiers and product representatives attended.

- Participating on a special task team of the **Construction Specifications Institute**. NASBP CEO Mark McCallum has been participating on the CSI team that addresses risk topics incorporated into construction specifications by project owners. NASBP involvement with CSI helps shape an equitable risk environment for the surety product.

IRMI

- NASBP Member Howard Cowan presented on a panel at and NASBP Officer Susan Hecker attended the 2012 **International Risk Management Institute's (IRMI)** Construction Risk Conference that was held in November 2012 in Orlando, FL. NASBP promoted the Conference to NASBP members with a mailing that included a recommendation from the Chair of the Risk Management & Insurance Committee. NASBP plans to again support and recommend the IRMI Construction Risk Conference that will take place November 17-21, 2013 in San Diego.

SFAA

- NASBP and **Surety & Fidelity Association of America (SFAA)** worked jointly to defeat legislation in Maryland that would have expanded the 2006 law to allow individual sureties to write bonds at the subcontractor level. After extensive lobbying efforts and discussions with the bill's proponents, this provision was removed from the bill and replaced with one requiring the state provide additional information to contractors on the types of securities accepted at the prime level, which include corporate bonds, bonds furnished by the Maryland Small Business Development Financing Authority (MSBDF) and individual sureties, as permitted under existing state law. NASBP continues to take the position that any person or entity writing bonds should be licensed and regulated by the Maryland Insurance Administration.

- Continuing to conduct joint efforts on Capitol Hill with the **SFAA** seeking to enact H.R. 776, the Security in Bonding Act of 2013; to increase the guarantee offered to surety companies that participate in the SBA Bond Guarantee Program; and to secure sponsors to support legislation that excludes the federal Miller Act from periodic

threshold increases for inflation. Staff of both organizations have worked together to address issues in various states, including threshold increases.

- NASBP worked with **SFAA** who supplied helpful industry data to supplement information about bond claims in the state of New Mexico. NASBP continued efforts in New Mexico to protect the use of bonding on public projects. Together, NASBP and SFAA successfully fended off sentiments to weaken bonding requirements in New Mexico.

- NASBP is a participatory organization in the **U.S.DOT/SFAA Bonding Education Program** that has selected 22 cities in which to provide the Program. NASBP members participate in the BEP and NASBP maintains a web page to provide information how members can and do participate in the program.

- NASBP regularly meets with staff of **SFAA** to discuss state and federal legislation and regulations of mutual concern and how both organizations can jointly work to preserve bond protections and thresholds.

Surety Associations

Carolinas Surety Association

- Presented in the fall of 2012 to the **Carolinas Surety Association** providing updates on state and federal activities in 2012. NASBP Director of Government Relations Larry LeClair presented to about 40 surety professionals, accountants, and attorneys in attendance.

Surety Association of San Diego

- NASBP First Vice President Larry McMahon presented with the AGC President and AGC Executive Director to a group of 49 surety professionals, accountants, and attorneys at a meeting of the **Surety Association of San Diego**.

Surety Association of Washington

- Ex Officio Stuart O'Farrell presented with Member Kathleen Mitchell of Wells Fargo to the **Surety Association of Washington** to about 75 surety professionals, accountants, and attorneys.

Texas Surety Federation

- Member Howard Cowan of Cowan-Hill Bond Agency is serving as the current President of the **Texas Surety Federation**. Cowan gave testimony in March before the Texas legislature in support of Texas HB 1134 that requires a private entity entering a comprehensive development agreement to provide bonds issued by a corporate surety or an alternative form of security.

TRIP

- NASBP appointed Member Howard Cowan of Cowan-Hill Bond Agency as a NASBP representative to serve on the **TRIP** Board. Cowan has attended several TRIP meetings since his appointment this fall.

Other Groups

Baltimore County (Maryland) Small Business Resource Center

- Member Michael Walter of BB&T recently presented at a workshop organized by the **Baltimore County Small Business Resource Center** for former employees of RG Steel, a company that recently closed down. The week-long session was organized to benefit those former employees with varying construction and non-construction trade backgrounds who were seeking information about starting a business.

City of Baltimore (Maryland) Local Contractor Development Program

- NASBP will present at the **Local Contractor Development Program (LCDP)**, which is being administered by the City of Baltimore Small Business Resource Center (SBRC). Presenters will include the team from Member Construction Bonds, Inc.--A Division of Murray Securus, including Josh Etemadi, Chair of the NASBP Small and Emerging Business Committee. The LCDP will consist of construction-related topics that help MBE/WBE contractors to develop and build capacity and be in a better position to compete and to grow their companies.

Community Development Commission of Los Angeles

- NASBP First Vice President Larry McMahon presented to a group of 20 contractors at the **Community Development Commission of Los Angeles**. His presentation focused on the surety product.

Construction Opportunities Conference

- During the **2013 Construction Opportunities Conference** in Oak Ridge, TN, Member Chad Martin of TIS Construction Division presented on the topics of what a surety bond is and how a company obtains their first bond.

Martin presented with Phil Condra of Bonds Southeast. About 250-300 people were in attendance that included owners and contractors.

DBE and Alaska Subcontractor Conference

- Ex Officio Stuart O'Farrell of Parker Smith Feek presented on the topic of the surety product to the **DBE and Alaska Subcontract Conference** to about 40 in attendance.

The Institutes

- Co-sponsored the Institutes National Honors Program. NASBP co-sponsored the **Associate in Fidelity and Surety Bonding (AFSB) award**, which a monetary award is given to an individual who receives the highest grade point average on the AFSB's exams. The Institutes represents the American Institute for Chartered Property Casualty Underwriter (AICPCU) and the Insurance Institute of America (IIA). This year's recipient was a Lexon Surety Analyst.

Maryland One Day Bond Information Program

- Held a one-day bond information program this past fall for small, emerging construction business owners supported by Maryland State Senator Delores Kelley as well as these construction accounting, law and lending businesses: **Maryland's Small Business Development Financing Authority (MSBDF)**; **The Harbor Bank of Maryland; Whiteford, Taylor & Preston, LLP; Lanigan, Ryan, Malcolm & Doyle, PC**; and the **Mid-Atlantic Surety Association**. Presenters include NASBP Members Steve Freeman of M&T Insurance Agency, Lynne Cook of Early Cassidy & Schilling, Joshua Etemadi of Construction Bonds Inc. – A Division of Murray Securus, J.M. Bud Herndon, III of CNA Surety Corp, NASBP Affiliate David Castillo of The Gray Casualty & Surety Company, and NASBP Associate Kevin Doyle of Lanigan, Ryan, Malcolm & Doyle, PC.

Mid America Government Industry Coalition (MAGIC)

- Member Michael Williams of CCI Surety, Inc., agreed to represent NASBP at a 3-day workshop that **Mid America Government Industry Coalition (MAGIC)** is hosting in Oklahoma City, OK to address the new mentor-protégé agreements in federal contracting resulting from the passage of the National Defense Authorization Act (NDAA) of 2012. Williams will address bonding issues for small contractors.

Regional Contracting Forum in Seattle

- Ex Officio Stuart O'Farrell made two presentations at the **Regional Contracting Forum** in Seattle, WA. The members in the audience for both totaled 65.

Surety Bond Continuing Education Seminar

- Member Jay Freiermuth of Holmes Murphy conducted a **continuing education seminar** in December for Holmes Murphy employees, customers, and prospective clients.

Surety Industry Panel at Annual Meeting

- Organized a panel of surety industry experts to share their views of the trends predicted for the surety and construction industries at the Annual Meeting. This panel will include: Tim Mikolajewski of Liberty Mutual Surety, Ross Fisher of The Hartford, Rick Ciullo of Chubb Surety, and NASBP Third Vice President Susan Hecker of Gallagher Construction.

Underground Contractors Association

- NASBP President Carl Dohn presented on the state of the surety industry for the **Underground Contractors Association** continuing education committee for a seminar in March.

Multiple Industry Partners

The following organizations have signed on as **supporting organizations of the Security in Bonding Act of 2013, H.R. 776**: American Insurance Association (**AIA**), American Subcontractors Association, Inc. (**ASA**), Associated Builders & Contractors, Inc. (**ABC**), Associated General Contractors of America (**AGC**), Construction Financial Management Association (**CFMA**), Mechanical Contractors Association of America (**MCAA**), National Association of Minority Contractors (**NAMC**), National Association of Surety Bond Producers (**NASBP**), National Electrical Contractors Association (**NECA**), Property Casualty Insurers Association of America (**PCI**), Sheet Metal and Air Conditioning Contractors' National Association (**SMACNA**), Surety & Fidelity Association of America (**SFAA**), Veterans Entrepreneurship Task Force (**Vet-Force**), and Women Construction Owners and Executives (**WCOE**).

The following organizations will be **invited to attend the June 20, 2013 NASBP Fly-in** Day reception that will held on Capitol Hill: **AGC, AIA, ASA, MCAA, TRIP, NECA, SFAA, SBA, SMACNA, SBA Office of Surety Guarantees, U.S. DOT Office of Small and Disadvantaged Business Utilization, and Vet-Force, WCOE** and others.

Publications & Articles

Educated construction and insurance industries about the surety product and surety market through industry articles, editorials and blogs, in *Engineering News-Record (ENR)*, **Baltimore Sun**, **affiliate newsletters**, *Construction Executive*, *National Underwriter*, and *Accounting & Compliance Alert*.

The **NASBP SmartBrief**, a weekly e-newsletter, has 3,285 subscribers to date and continues to have the highest click rates among all publicly available SmartBriefs. NASBP SmartBrief continues to outpace SmartBrief's newsletter averages. The Newsletter is free and requires readers sign up to receive it at www.smartbrief.com/nasbp/ by providing an email address.

NASBP continues to offer 5 ad spaces in the newsletter. The weekly newsletter includes brief descriptions of six news articles about the surety product and surety industry and can be used by the membership as a client education tool. The newsletter briefly summarizes the week's top 10 news items and provides a link to the original source of each article. In addition, each issue includes two articles about current Association events or issues.

Pipeline articles on current legal issues in the surety industry

The law firm of Whiteford, Taylor & Preston LLP, which serves as outside counsel to the Association, regularly submits a legal a column, titled the **Legal Spotlight**, for publication in Pipeline.

Published articles in Pipeline on the following topics:

- Ullico Casualty rehabilitation
- Judicial bonds as a source of opportunity in commercial suretyship
- Case where individual surety's motion for judgment on pleadings was denied
- Latest developments on sustainable construction

Pipeline articles providing insight and assistance to Producers and their clients

Published articles in Pipeline on the following topics:

- Update on the First Sealord Surety liquidation
- New Mexico-A model of advocacy to be used for success
- Surety industry's response to group advocating "leaving bonds at the door" of public IT services contracts
- Individual surety is in the news and before legislators
- How can mechanics' lien laws and surety bond protections be maintained?
- QR Codes as a Marketing Tool

ABC's Construction Executive

Provided the NASBP President's comments about the current surety market. These were published in November 2012 in the Surety Supplement of the Associate Builders & Contractors magazine, *Construction Executive*.

Submitted a letter to the Editor of *Construction Executive* in response to an article that was published in the magazine in January 2013. NASBP sent the letter out of concern that the article was not wholly accurate in its portrayal of surety bonding and, as a result, may inadvertently engender misconceptions about bonding to readers.

Ongoing Industry Initiatives:

NASBP continues its support and promotion of **ConsensusDocs** for the NASBP membership. Promoted the new and updated ConsensusDocs Joint Venture and Design-Build Teaming agreements, as well as, the webinars held on the topics of comparing ConsensusDocs with AIA documents, federal contracting, and owner and contractor perspectives on tailoring ConsensusDocs to projects. The NASBP registration discount for ConsensusDocs Webinars is NASBP30_WEB (for April 22 Webinar) and NASBP_WEB (for May 8 Webinar). Also promoted the free ConsensusDocs Prequalification Forms subscription package that includes five documents.

NASBP continues to offer free "fill-in" pdf **ConsensusDocs bond forms** at www.nasbp.org/consensusdocsdownloads as per agreement entered with AGC. Free materials, IPOD recordings, and magazine articles about provisions in industry standard form contract documents including ConsensusDocs are available at www.consensusdocs.org.

NASBP members, affiliates and associates can receive a **discount of up to 20% off when they purchase ConsensusDocs subscription packages** at www.consensusdocs.org if they use the promotional code: NASBP400 at the time of purchase.

For a third year in a row, NASBP is promoting the **U.S.DOT/SFAA Bonding Education Programs**, of which NASBP is a participatory organization and from which 509 participants have completed the Program resulting in nearly \$140 million in bonds issued on transportation projects. The DOT has scheduled Workshops in 22 cities in the U.S for 2013. NASBP continues to post the schedule of Stakeholder meetings and Workshops at nasbp.org and information about members' participation in the BEP. Manager of the Program Nyime Gilchrist participated in the March 29 NASBP Virtual Seminar with NASBP Members Don Burden of Zervos Group and Patty Zenizo of Preferred Bonding. Presenters described the Program and the benefits to producers who participate in assisting with the DOT BEP Workshops. NASBP members and affiliates have been participating in the stakeholder and workshops. NASBP President Carl Dohn of Dohn & Maher Associates and Past President Spence Miller of Schwartz Brothers participated in the Chicago DOT BEP Workshops held over eight weeks and NASBP Ex Officio Stuart O'Farrell participated in the 2-day Alaska DOT BEP Workshop.

In February 2013, NASBP offered a 25% discount to employers who posted their open positions to its **NASBP Career Center** by July 31, 2013. This is in addition to the discount NASBP members and affiliates receive year round. NASBP's Career Center (www.nasbp.org/careers) is the only national, on-line job board that is specifically geared toward matching individuals seeking employment with surety and insurance agencies and companies.

2013 Initiatives and Planned Activities are:

- **Engagement with Stakeholder Groups** – Continue to work diligently to seek out key stakeholder groups at every possible opportunity through articles, sponsorships and presentations.
- **Resources on the Bond Product & Industry Positions** – Continue to obtain data and information on key surety issues that will be made available to the NASBP membership and key stakeholder groups to which NASBP maintains relations.

Challenges:

What are the industry issues related to your committee's activities? Most industry issues in some form.

What is the impact or potential impact of these issues on NASBP? Educating stakeholders and the public about the value of the surety product and how it benefits taxpayers, helps surety professionals and the surety industry proactively address anti-surety views and policies.

Areas for potential joint objectives with other NASBP Committees. Sharing the objective of Small & Emerging Business Committee to educate small and emerging contractors about obtaining surety credit. Also, sharing the objective of Government Relations Committee to educate owners and the public about the value of the surety product.

Estimated time required for presentation and discussion.

5 minutes