



NATIONAL ASSOCIATION OF SURETY BOND PRODUCERS

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2020 Government Relations Agenda of the National Association of Surety Bond Producers (NASBP)

NASBP, located in Bethesda, MD, is a national trade association whose membership includes firms employing licensed surety bond producers placing bid, performance, and payments bonds throughout the United States, its territories and in certain countries for construction projects and other commercial purposes.

This Agenda describes important government relations activities and initiatives, grouping them in three categories: (1) **Direct Advocacy** by NASBP members and or staff, (2) Working with **Coalition Partners** to accomplish stated legislative goals, and (3) by using **NASBP Advocacy Tools** as another means to achieve a legislative solution.

1) Direct Advocacy

Advocate for the preservation and, where possible, expansion of existing federal, state, and local statutory bonding requirements:

- Educate public officials and legislators regarding the crucial public policy reasons underlying bid, performance, and payment bond requirements in relation to private/public works and infrastructure projects;
- Monitor legislative and regulatory efforts to increase statutory bonding thresholds and oppose those that represent material increases;
- Oppose efforts to substitute alternative products for statutorily-required bonds;
- Advocate for the removal of periodic threshold increases to the Miller Act based on inflation e.g. Title 41;
- Advocate for regulatory or statutory changes to require written notice when payment bonds are waived on federal construction contracts;
- Advocate for bonds for the construction portion of Public-Private Partnership (P3) agreements to ensure that construction projects undertaken for public benefit and welfare through P3 contracts offer contracting authorities proper prequalification of entities performing construction services; guarantees of performance from solvent, third-party corporate sureties; and payment remedies for unpaid subcontractors and suppliers;
- Advocate for statutory bonding requirements for the construction portion of the contract when third-parties receive federal loans or grant funds for the undertaking of P3 agreements; and
- Monitor legislative and regulatory measures authorizing alternative project delivery methods to ensure incorporation of, or reference to, statutory bonding requirements.

Commercial Surety Legislative Opportunity

- Advocate for bonds as an alternative to letters of credit when small business internet service providers (ISPs) bid on procurement opportunities through the Federal Communications Commission's (FCC) Rural Broadband Auction, so such small businesses working capital will not be tied up in an LOC and the FCC is financially protected in the event the ISP fails to perform.

Advocate for legislation/regulations, that encourage qualified small, disadvantaged, and minority contractors to participate in public construction markets:

- Support legislation that provides education and resource opportunities to small, women, minority, and veteran-owned construction companies to better position them to qualify for surety credit; and
- Support bond guarantee programs that have been reviewed and analyzed for practicality and adhere to current industry practices.

Advocate for new legislative initiatives in the states

- Explore and seek legislative opportunities in select states to allow private owners to avoid potential lien claims by obtaining payment bonds from general contractors. Texas and Florida are examples of states with such statutes. NASBP will also seek support in order to bolster this initiative from the state chapters of the American Subcontractors Association (ASA) and the Independent Community Bankers.
- Advocate for adoption of the National Association of Insurance Commissioners (NAIC) “Unauthorized Transaction of Insurance Criminal Model Act,” which establishes criminal penalties when a person engages in a transaction of insurance without a certificate of authority.
- NASBP has researched the anti-directed surety statutes in each of the states/jurisdictions and compiled the citations for easier access to our membership. Directed surety occurs when owners designate a specific producer or surety company from which contractors must obtain surety bonds for a specific project or series of projects. Only eight jurisdictions (AK, DC, GA, KY, NJ, OR, VT and WY), have yet to enact anti-directed surety legislation. Those remaining eight jurisdictions may want to consider using an example where directed suretyship occurred in their respective jurisdictions to persuade legislators that legislation is needed.

2) Coalition Partners

NASBP is part of the Construction Industry Procurement Coalition (CIPC) which includes 15 national trade and professional organizations such as the American Council of Engineering Companies (ACEC), the Associated General Contractors of America (AGC), the American Subcontractors Association (ASA), the American Institute of Architects (AIA), the Design-Build Institute of America (DBIA) and the Surety & Fidelity Association of America (SFAA).

In 2020 the CIPC may seek to introduce legislation addressing the following procurement reforms:

- Require payment and performance bonds on federal P3 agreements for federal buildings;
- Require federal agencies to report during the solicitation process when it is their policy to bundle change orders;
- Require federal agencies to pay for 50 percent of the actual cost to perform change orders; and
- Establish uniform statute of repose for federal design and construction services.

3) NASBP Advocacy Tools

Encourage Support and Funding of SuretyPAC —SuretyPAC is the oldest federal PAC that is 100% devoted to representing the surety industry and establishing and nurturing relationships with candidates running for congressional office. NASBP uses SuretyPAC as one of its advocacy tools to engage, educate, and encourage federal legislators to support NASBP’s federal legislative agenda.

Encourage Participation in Annual Legislative Fly-in —The Legislative Fly-in plays an important advocacy role in NASBP’s Government Relations Program as it allows NASBP members and staff to engage in policy discussions with Congressional offices that may otherwise not be possible without its member’s active involvement. Because 2020 is a general election year, and all states will be conducting primary elections, NASBP is reticent about hosting a fly-in where lawmaker’s focus will be on elections and not on policy matters. However, should NASBP decide to participate in a joint fly-in this year, like we did in 2019 with SFAA, NASBP will request that SFAA take the lead on arranging all logistical needs such as securing the host hotel and securing fly-in appointments. NASBP is committed to hosting a joint fly-in with SFAA when a new Congress takes the oath of office in January of 2021.

For Further Information: Contact Larry LeClair, Director, Government Relations at 240-200-1272 or at lleclair@nasbp.org.