Insurance Today II

Surety Bonds Build America

Experts assesses market conditions, capacity and strength

By Vicki Speed

The Surety & Fidelity Association of America
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WHAT'S INSIDE

2018 Surety Mid-Year Update: Growth, Capacity and Emerging Public/Private Connections

A favorable construction outlook, low loss severity numbers and plenty of surety capacity highlight the state of the industry thus far in 2018.

Annual construction put-in-place continues to grow at a steady rate, with few down segments in the public sector despite funding uncertainty. While state and local governments struggle with limited budgets, these organizations are finding ways to move forward with increased taxes, user fees and alternative project-delivery mechanisms.

Robert A. Murray, chief economist for Dodge Data & Analytics, recently noted, "In its latest quarterly survey of bank lending standards, the Federal Reserve indicated that lending standards for nonresidential building projects eased slightly on net during the first quarter of 2018, following the tightening that took place from late 2015 through 2017. In March, Congress reached agreement on fiscal 2018 appropriations, providing additional funding for several public works programs. And, while interest rates are rising, the upward movement so far has been measured, with the 10-year Treasury bill stabilizing at about 3% from March through mid-May."

That's good news for construction in 2018. The rising need for new or renovated horizontal and vertical infrastructure will help contractors build strong balance sheets and increase project margins—while the current strength of the surety market in both capacity and profit assure contractor health, mitigate risk and ultimately protect the public's money.

Capacity to Compete

Significant capital at the primary and reinsurance level is driving available capacity in the surety market.

According to The Surety & Fidelity Association of America (SFAA), the surety industry experienced record growth for the second year in a row. In 2017, the direct premium written increased from $5.9 billion to $6.2 billion—the fifth straight year of steady increase (see Figure 1). As well, SFAA reports that the industry premium has more than doubled in the past 20 years—up from $2.9 billion in 1998. In 2017, the surety industry protected more than $600 billion in contract and commercial surety exposure.

In a recent survey, top surety leaders indicated that growth will continue. Merchants Bonding President Larry Taylor, chair of SFAA, adds, "Surety capacity is plentiful, with stable underwriting results. We see a number of new markets entering the surety industry, and several reinsurance companies are attempting to expand by establishing primary operations."

Cross-Market Growth

In May 2018, a survey of top surety providers are highly optimistic. All experts surveyed noted that surety business across all markets is strong in terms of capacity and competition.

National Association of Surety Bond Producers (NASBP) President Robert E. Shaw, also president of Lewiston, Maine-based Skillings Shaw & Associates, adds, "The surety market experienced another solid year in 2017. With the economy posting strong results, many construction opportunities have been created across the board for contractors, subcontractor trades and specialty trades."

He continues, "Strong surety returns over successive years along with positive contractor financial results facilitates a highly competitive surety underwriting environment."

While capacity is high, the middle market sector ($10–$100 million) is likely to feel the most squeeze, according to Rob Freel, senior vice

Figure 1: Direct Premium Written Since 1998

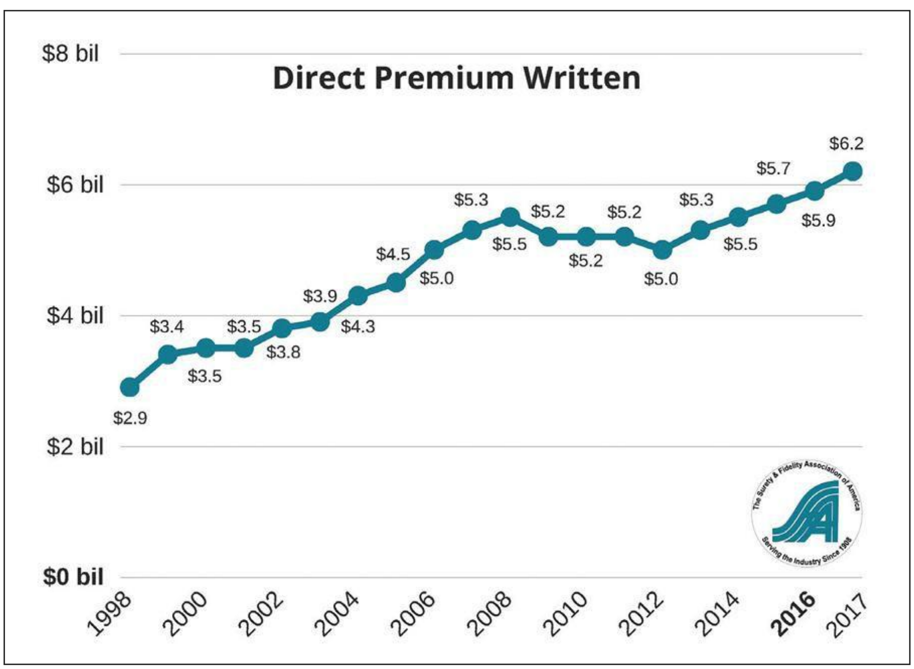

IMAGE: COURTESY OF SFAA

Bond Capacity Trends/Challenges by Market Sector	
Small (Under $10 million)	• Excess availability • Ample reinsurance capacity • Expansion of credit-only underwriting programs • Soft underwriting terms
Middle ($10–$100 million)	• Highly competitive • Excess availability • Soft underwriting terms
Large ($100–$250 million)	• Adequate availability • Soft underwriting terms
Mega (Over $250 million)	• Limited availability • Controlled underwriting terms

president of McGriff Seibels and Williams. He explains, "Larger markets ($100 million and up) are more apt to pursue accounts in the small and middle market segments, and the small to middle markets have tried to root themselves in accounts larger than they have before by restructuring reinsurance agreements and/or becoming co-surety partners with other markets."

While top sureties have maintained underwriting standards, competition in the surety market along with improving project margins and more work opportunities often results in lower rates, relaxed indemnification requirements and a rise in contractor failures—a situation that current workforce shortages could greatly exacerbate.

Managing Workforce Concerns

A rise in contractor failure is a common and familiar statistic during good economic times, primarily because contractors take on too much work. Yet early signs indicate that while there is an increase in contractor failures, the numbers remain low across all sectors.

D.J. Conroy, vice president of Surety at Berkshire Hathaway Specialty Insurance, says, "The surety industry's 2017 direct loss ratio (approximately 15%) continued to be extremely healthy, which means contractor failures were minimal and there were no clearly identifiable trends outside of the typical contributors to contractor failure."

Joanne S. Brooks, Esq., vice president and counsel at SFAA, confirms that trend, adding, "We've not seen a rise in contractor failure yet—and we believe that's because of the prequalification process associated with bonding."

Prequalification evaluations typically include an examination of the contractor's expertise in the work, character, ability to work in the region where the project is located, current work in progress and overall management, as well as its capital and record of paying its obligations. A surety bond provides a public contracting entity with assurance that the contractor has the tools, processes and people to perform the contract backed by the surety's own funds.

Moving forward, top underwriters will certainly keep an eye on today's current challenges—which include workforce shortages, wage escalation and commodity price increases—during their prequalification assessments.

Besides low contractor failure numbers, sureties are also seeing improving contractor profit margins. John Welch, president of CNA Surety, says, "After years of the margin-less recovery, we have seen an increase in profit margins in 2017 and 2018, particularly for subcontractors. General contractor margins are also improving but remain very competitive."

P3s and the Bond

One of the hottest topics of discussion in the public sector is the public-private partnership (P3) project-delivery mechanism as a way to help state and local entities build, rehab and maintain vertical and horizontal infrastructure. Currently, 36 states, the District of Columbia and Puerto Rico have some form of P3 legislation, though most are limited to transportation. Only 14 of the 38 jurisdictions have P3 legislation in place for vertical infrastructure.

Industry experts surveyed for this report all state that they are seeing considerable discussion about surety bonding—and some emerging challenges. Josh Penwell, vice president of contract underwriting at Merchants Bonding Co., explains, "In too many instances, surety bonding is not a high priority. In one case, the public/private partners wanted to build a wastewater treatment plant, but the city's attempt to float municipal bonds to fund its portion of the deal is not going as planned, so the project is on hold."

As well, Freel reflects on surety bond challenges, adding, "Recently, a contractor failed on a project where the state required less than 100% bonds on an infrastructure project, ultimately costing the state hundreds of millions of dollars. Although it can be argued that lessening the bonding requirement increased competition from the design/builder perspective, it was incredibly detrimental to the taxpayers whom the bonds are intended to protect."

Most of those surveyed believe that the surety bond is increasingly valued on P3s. Welch notes that a vast majority of public-private projects that his firm sees include some level of bond support, partly due to the surety industry's willingness to modify and/or develop bond forms that suit the particular needs of various projects. He continues, "No two P3 projects are exactly alike; thus, the industry, in many instances, has had to adapt to this newer delivery method. Beyond working with owners, developers and contractors, the surety industry has also been active working with rating agencies on the value surety bonds can bring to the overall financial package of a project."

As well, the surety industry has adapted to P3 by continuing efforts to provide surety credit on large

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infrastructure projects by offering bond forms that expedite the claims process. These forms that offer either an almost immediate liquid component and/or an expedited claims-resolution process can influence the credit-rating agencies to give an increased debt rating associated with the debt on these projects when provided as part of the concessionaire's security package.

Bonds in the Private Sector

In his summary about the strength of the 2017 surety market, Ross Fisher, immediate past chair, ex-officio of the SFAA Board of Directors and head of Specialty Commercial Businesses at The Hartford, noted a significant increase in the use of surety bonds in private construction.

He added, "Savvy construction lenders, developers and private owners understand that surety bonds provide the most comprehensive protection—ensuring that the contract will be completed and workers will be paid."

Those surveyed for this report say they are seeing a growing number of lenders on commercial projects requiring contractors to provide bonds, particularly in the commercial retail, hotel and office building markets due to stricter underwriting guidelines in the lending community.

Experts believe that the private sector should look even more at the surety bonds, noting that many believe they're not needed because the private construction market appears to be strong and continues to drive growth.

The Road Ahead

As in any good economic time with plentiful capacity and growing construction spending, the surety market is in the early phases of a soft underwriting cycle that many expect to continue.

Conroy says, "The outlook for the surety industry typically lags construction by 18 to 36 months, so 2018 and 2019 look favorable for surety providers. Given the current level of capacity in the market and the favorable outlook for the next few years,

Bond Ready: Small and Emerging Contractors Benefit From Bonding Education

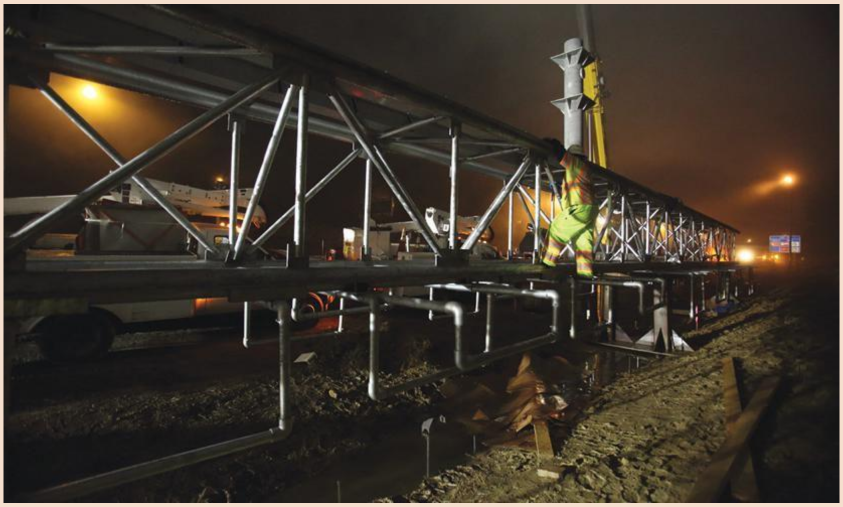

PHOTO: COURTESY OF VIRGINIA DEPT. OF TRANSPORTATION

SFAA worked with the U.S. Dept. of Transportation and FAM Construction to conduct a customized Bonding Education Program to help small businesses become bond ready for work on public transportation projects in advance of the $2.3-billion Virginia I-66 highway upgrade project.

In the recent survey, surety experts report that they are seeing ample reinsurance capacity and strong internal capital support in the small market sector (under $10 million)—an area that SFAA has paid close attention to for many years.

As part of its longstanding commitment to strengthen the small and emerging contractor market and grow the industry, SFAA introduced the Model Contractor Development Program (MCDP) many years ago. MCDP is an effort to teach small construction contractors how to improve their companies' operations and increase their bonding capacities.

In 2010, SFAA partnered with the U.S. Dept. of Transportation (USDOT) to adapt MCDP for transportation-related projects, introducing the Bonding Education Program (BEP). BEP is a hands-on, multicomponent program that includes one-on-one consultations with local surety bonding professionals to help develop customized prescriptive plans designed to help small businesses become bond ready for work on public transportation projects. Since its inception, the BEP has resulted in more than 135 BEPs and over $760 million in initial bonding capacity.

The SFAA/USDOT BEP is also increasingly tied to mega projects. One recent example is the $2.3-billion Virginia I-66 design-build upgrade project. The USDOT and SFAA worked with FAM Construction (a partnership between Ferrovial Agroman US and Allan Myers), Virginia Dept. of Transportation (VDOT) and other stakeholders to conduct a BEP preconstruction to prepare those contractors for the bidding process during construction.

Joanne S. Brooks, Esq., vice president and counsel at SFAA, explains, "Our goal is to increase the pool of qualified contractors who are able to participate on the project and meet the goals set by VDOT. We plan to conduct a secondary BEP, at the start of construction, to continually prepare contractors and grow capacity for those bidding and participation on the construction and maintenance portions of the contract." ◆

it would seem there would have to be a confluence of events, such as M&A activity amongst insurance companies in addition to an increase in loss severity, to significantly impact capacity."

Penwell warns, "When the surety market is soft, contractors often feel pressure to look at larger jobs and larger backlogs, not because they have the experience, but because they can qualify for more surety credit. Without disciplined underwriting, contractors that have backlogs of work that are larger, have thin margins or are in areas where they lack experience may have challenges."

There are some signs of potential problems ahead though. Freel adds, "The uncertainty surrounding the labor market as well as the current administration's aim on increasing tariffs on imported materials likely could lead to increased losses for sureties in both frequency and severity if contractors do not appropriately manage these issues."

Henry W. Nozko Jr., president of ACSTAR Insurance Co., predicts, "Losses most likely will be on the rise in both terms of frequency and severity, primarily because of fierce price competition both at contractor (principal) level and surety level. We've seen no impact to capacity yet because of the glut of hungry surety markets. Infrastructure spending, should it happen, will be the best thing that has happened to the construction and surety industries in the past decade."

Legislative Update

Federal Thresholds

Per the Miller Act, a general contractor contracting with the federal government on contracts more than $150,000 must obtain performance and payment bonds. The 41 U.S.C. 1908 Inflation adjustment of acquisition-related dollar thresholds bill provides for periodic inflation adjustments to procurement thresholds. When next reviewed, the Miller Act bond threshold could be increased to $200,000.

Lenore Marema, SFAA's vice president of government affairs, says, "The impact of that change is considerable, both to the federal government's budget and to small contractors working on public projects. The average annual dollar amount of federal construction contracts between $150,000 and $200,000 is $300 million."

SFAA, NASBP and sureties are working with legislators to exclude the Miller Act from this provision because increasing this threshold exposes more small construction businesses to loss of payment protection on federal construction projects.

State Focus: Occupational Licensing

In recent years, there has been considerable discussion about challenges associated with occupational licensing—challenges that directly impact the construction industry and its available labor force. Criticisms include licensing costs, which may create barriers to entry and reduce the available work force, inconsistencies from state to state for the same types of licenses, overly regulated requirements compared to the public health and safety risks of the occupation, and non-transferability of licenses across state lines.

A license bond usually secures the obligation that the licensed business will conduct its activities in accordance with the license and relevant statute and regulations. The primary purposes of a license bond are: to protect consumers; to prequalify the license applicants who will comply with the statutory obligations for a license, and in so doing, prevent losses; and to provide some reimbursement for losses, up to the penal sum of the bond, if the licensee defaults on its obligations.

Louisiana, Nebraska and Oklahoma enacted a new law that requires the state to use the least-restrictive form of regulation under which licensure will be required only if other less-restrictive methods are not effective. Nebraska now requires 20% of occupational licenses to be reviewed each year on a continuous five-year review process. Oklahoma and Louisiana both created a license review commission to conduct a review of all license requirements every few years. Reviews will include the licenses currently required in the construction industry.

Arizona law now provides that all existing local government licenses expire five years after enactment and no new license can be required without a public hearing. A second new law in Missouri allows people who are licensed in another state to apply for a waiver of certain licensing requirements. Fees, surety bonds and proofs of insurance cannot be waived.

Marema notes, "When state agencies review existing licensing requirements, they need to remember the original purpose for many of the existing licenses, which was consumer protection."

In 2017, the surety industry protected approximately $88 billion in license and permit bond exposure. Multiyear data indicates low loss payout, which signals the industry's underwriting practices provide a high level of consumer protection.

With a license bond, the surety provides the regulatory entity with the prequalification of license applicants who will perform as required and the added benefit of the bond amount being available for payments if the licensee fails to perform.

According to NASBP Director of Government Relations Larry LeClair, surety bonds are an integral part of the regulation for many businesses, occupations and activities. ◆

Robert Duke, general counsel for SFAA, adds, "As surety capacity grows, the concern is whether the demand for the capacity (i.e., surety bond opportunities) can keep pace with the growing supply. Two factors will facilitate a continued strong surety marketplace in 2019: capacity and demand. The abundant surety capacity must continue to be used prudently with sound underwriting discipline. Second, increased demand for surety capacity through new bond opportunities will help continue a strong market."

Brooks adds, "Today, risks that range from the growing labor shortage to rising material costs affect the industry's ability to compete and complete work. Sureties are here to help. Let's put them to work!" ◆

The Surety Relationship at Work

On a recent project, a subcontractor bonded by Skillings Shaw & Associates, an agency member of the National Association of Surety Bond Producers (NASBP), was having payment difficulties on a project. Payments were often delayed, and the schedule was continually changing. Threatening letters between the general contractor and the subcontractor were intensifying.

When the subcontractor expressed a desire to leave the project, Skillings Shaw encouraged the client to review his contract and legal obligations as they related to the general contractor and surety.

Skillings Shaw put its client in contact with a knowledgeable construction attorney who assisted the subcontractor to understand potentially problematic documentation and other aspects of the project. At the same time, the subcontractor and Skillings Shaw kept the surety informed of the status of the situation.

Ultimately, the issues were resolved and the project was completed with the subcontractor maintaining control and responsibility, with no surety claim filed. ◆

The Performance/Payment Bonds Promise on Public & Private Projects

By **Robert Duke**, General Counsel, SFAA

No matter the scope, scale or complexity of a project, every owner and/or general contractor must address risk.

Construction risk or uncertainty is manifested in two ways—the qualifications of a contractor to complete the project and the possibility of contractor or subcontractor failure, which could potentially leave insufficient contract funds to cover the remaining project costs, especially important on public projects where taxpayers' dollars are at risk.

The central tools for mitigating risk are performance and payment surety bonds.

A performance bond helps to provide the project owner the certainty that qualified contractors are hired to perform the work and that financial protection is available in the event the contractors fail.

Payment bonds provide subcontractors and suppliers the necessary payment security on public and private projects. With respect to private projects, a payment bond helps assure the owner that the asset will not be burdened with mechanics liens.

The first form of protection provided by performance bonds and payment bonds is prequalification. A surety provides a bond only to contractors that it has determined are, in the surety's estimation, capable of performing the work and meeting its payment obligations. During the prequalification process, the surety verifies a contractor's financial strength, capacity to perform, organizational structure, management, credit history and banking relationships.

In the event of the contractor's default, the surety steps in to provide the second benefit of the bond: financial protection. Depending on the terms of the bond, the surety may rebid the project for completion, bring in a replacement contractor, provide technical and/or financial support to the existing contractor or pay the penal sum of the bond.

Typically, the amount of the performance bond is 100% of the original contract price and the amount of the payment bond is 100% of the contract price—thus 200% of the contract price is available to satisfy the contractor's defaulted obligations. A surety can remedy a performance default in a number of ways. For example, the American Institute of Architects (AIA) Performance Bond Form A312 states that a surety may respond to a default by arranging for the contractor to complete the project by taking over the work itself or paying the owner the completion costs that are in excess of the contract balances held by the owner.

Construction is a risky business—a surety partner is there to help owners and contractors complete work per the contractual terms. ◆

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Is Your Broker Equipped to Help when Challenges Arise?

By **Al Marquis**, Founding Partner, and **Gary Rispoli**, Partner, Director of Surety, Construction Risk Partners, a JLT Company

Are you overlooking one of the most essential services that a surety broker should provide?

Brokers often differentiate themselves by sharing their specialized knowledge about bonding limits, pricing, indemnity and conditions, etc.—and while those are certainly important, few highlight their abilities during difficult times, such as a surety claim, a difficult job or poor financial results that impact a surety program.

Most contractors expect their surety brokers and providers to support them through challenging situations to get their businesses back on track. Unfortunately, not a lot of brokers have the experience and knowledge to help.

When a claim occurs, many brokers immediately pitch the claim to the surety without providing input—thereby facilitating a one-dimensional decision-making process that is entirely in the surety's hands. An effective broker should strive for a more balanced assessment of a claim or difficult job, offering pros and cons to potential decisions in the interests of both parties: the surety and the contractor. Sometimes the best decision requires more risk from the surety to achieve a successful balance—and that's where the broker's unique knowledge of his client comes in.

When talking to a new or current broker, ask about claims management experience, the broker's role in the process and his or her track record. Does your surety broker have experience resolving a bad job or wrongful judgment? Does he/she have the legal and regulatory expertise to offer valuable insight to the surety that's in your best interests?

We're in a good economic cycle with plenty of surety capacity and profitability. Now is the time to determine if your surety broker has the skills to guide you in more challenging times. ◆

Bonds: A Safety Net for Projects of All Sizes

By **Steve Dorenkamp**, Vice President, Claims, Merchants Bonding Co.

A recent study of the loss severity of 2,944 construction contractor defaults by SFAA showed that smaller contractors have the highest probably expected loss severity. The association found that for contractors with under $2.5 million in bonded liability, the average loss net of salvage was 52% of the exposure.

These numbers emphasize the importance of surety bonds on small projects. In a recent joint-venture project to build a mini-mall with a bank and a drugstore contracted to be tenants, the contractor obtained a performance and payment bond. Construction began on schedule in June, and by October of that same year, the project was 10% complete with no issues. By March of the following year, the project was 50% complete, and the contractor was 30 days behind schedule. By May, the bond obligee notified the surety company underwriter that termination of the principal was pending.

> With the surety picking up the losses, the project was completed with minimal delays, no liens, no litigation and a contractor that was still in business.

There were some disputed change orders, and some subcontractors had abandoned the project. The contractor, while competent, was having financial difficulties. The surety company investigated and found that subcontractors and suppliers needed to be paid, the project was facing $750 per day in liquidated damages, and the concrete and asphalt needed to be set prior to winter.

The surety decided to support the contractor already on the job and responded with money to pay the subcontractors and suppliers, applied funds control to the project and established regular meetings to stay on top of the project progress. With the surety picking up the losses, the project was completed with minimal delays, no liens, no litigation and a contractor that was still in business. ◆

Underwrite Your Surety

By **Rod Williams**, Director of Enterprise Risk Management, Markel Surety

The construction rebound has spawned many new players in the surety market, resulting in abundant capacity and a soft underwriting environment. Now, more than ever, contractors should take great care in selecting a surety partner, just as when hiring a key employee. Your surety relationship may seem easy in good times, but how will it hold up when times get tough or when a good stretch opportunity arises?

Perform the same stringent review and ask questions of your prospective surety just like it will in underwriting your company. Your professional surety agent will be valuable in recommending a good match, but do your own due diligence. Just as you would research and interview an employee recommended by a search firm, thoroughly vetting your surety will help ensure that you are making the right choice. You would try to determine how a prospective employee would handle difficult situations, so do the same with your surety.

View the surety's website, LinkedIn or other social media sites. What is the experience and tenure of the underwriting team? Ask for underwriter résumés. An inexperienced staff and frequent turnover are potential barriers to a long-term partnership. Speak with industry peers about their experiences with a surety's underwriting and claims staff. How does it handle claims, and what services does it offer its clients? Advice from a good surety claims professional can be valuable. Your attorney and your CPA may also be great resources in evaluating a prospective surety partner.

While a surety hungry to grow may offer quite attractive terms and conditions in this competitive market, do your best to make sure it will be there when you need it the most. Think more in terms of establishing a relationship that will see you through the next downturn rather than just who looks and sounds the best right now. ◆

Inherent Defects Insurance Could Help Avoid Long-Line Litigation

By **Steven D. Davis**, CPCU, ARM, Senior Vice President, Construction Risk Services, McGriff, Seibels & Williams

Latent building defects identified years after completion will often point to a claim fraught with litigation and forensic reports. And, while there may be some insurance coverage hidden amongst the fine print of the general liability or professional policies, it won't come easy nor inexpensively.

That's why some are turning to inherent defects insurance (IDI). Developed in Europe to provide property owners a more defined path to a construction defect, IDI is a first-party insurance contract designed to insure the payment of repairs and rehabilitations of defects without the long line of litigation.

Key features of an IDI include:

- **Up to 10 years of coverage:** Underwritten prior to construction and engineered by Technical Inspection Services, the policy inception begins at building completion.
- **Property owner beneficiary:** IDI is for a property owner; claims are made directly to the insurer by the owner, thus reducing the need to solely rely on contractor or designer liability limits.
- **First-party contract coverage:** Damage to the structure or other critical components of the property triggers coverage, removing the need to determine what or who caused the defect.
- **Available limits:** IDI coverage limits the available approach, though $100 million with additional limits is available through international reinsurers.
- **Transferable:** The insurance contract is transferable during the sale of property, providing credibility to the quality of the building and reassuring the buyer.
- **Technical services:** Engaged during early stages of the project, these services provide additional assurance to the quality of the building.

Domestic and international IDI capacity is available. While it may take some time to emerge in the market, we expect to see IDI as a risk management tool for both the owner and the general contractor. ◆

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Sign of the Times: Workforce Shortages and Growth Eats Cash

By **Kevin W. Birch**, CCIFP, AFSB, Regional AVP, CNA Surety

There are two signs of the current times that were not present just a few years ago. The first is the fact that limited labor resources force management to be selective in projects pursued. The common theme among all contractors is the lack of skilled and unskilled labor. Construction associations are anxiously engaged in educating students in high schools and trade schools regarding the employment opportunities in skilled trades and construction careers.

Despite these noble efforts, the shortage of workers is gaining steam, with more baby boomers retiring during a construction growth economy. Construction companies are being creative in retaining their people and attracting talent, including increasing compensation to include benefits and looking toward a new area of potential labor: refugees and immigrants. The construction companies that are successful in managing labor needs by retention of existing employees and developing new talent will have a competitive advantage.

The second is the realization that growth eats cash. The fundamental reality in a growing economy is that growth eats cash. As revenues increase, accounts receivables (A/R) and underbillings increase, which decreases cash balances. Revenues are increasing in this economy, and therefore A/R balances and underbillings are on the rise compared to prior years. Contractors have the ability to raise cash with overbillings to the extent allowed by project owners. Some contractors short of cash will use bank borrowings to fund growth. Contractors that are disciplined in managing cash flow will incorporate in the project-selection process the terms of payment (cash flow) along with the profit potential to determine appetite and level of interest in the project.

Now is the time for CFOs and project managers to be attentive to A/Rs turnover and underbillings that ensure timely conversion of these assets to cash. ◆

The Value of Go-No-Go Process

By **Gregg Lyon**, Second Vice President, Chief Strategic Officer, Travelers

We recently conducted an evaluation of our annual top 10 surety claims over the past decade. We do this for two reasons: 1) to help our clients learn from the pitfalls of their peers, with the focus on helping all of our clients ultimately be in positions to run better businesses, and 2) to help our underwriters better understand all that can happen to construction firms and why.

A current trend we are seeing is how one bad job—whether it be the largest job taken on to date, working with a different owner or in a new territory, or simply taking on terms that are not the norm—can have a detrimental effect on an organization, and in many instances, put it in a position where it ultimately has to close its doors.

This past year, we saw a considerable rise in these "one-hit wonders," where that one decision to take on a job with a different level of risk resulted in business failure. It's important to point out that these were, for the most part, successful firms without any systemic organizational issues that led to their demise. As we look back and evaluate these claims, it speaks volumes for the value of having a solid "go-no-go" decision-making process in place on a per-project basis.

A current trend we are seeing is how one bad job can have a detrimental effect on an organization.

These are not shields against issues ever arising, but if a company can be realistic about identifying the true risk in a job, price it accordingly, and provide the right resources to effectively manage that project, it has a better chance of having a successful project and avoiding a sureties' claim department.

For additional information about the findings from our historical review of our top 10 surety claims, please contact your local agent and underwriter. ◆


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Unanticipated Benefits of Bonds to Contractors

By **Henry W. Nozko Jr.**, President, ACSTAR Insurance Co.

Some obvious benefits a contractor will gain from having surety support include the ability to secure a specific contract under which the terms require a bond.

Having the ability to provide bonds also opens a larger market compared to pursuing only projects for which bonds are not required. The credentials of a contractor are enhanced by the attestation of having surety support. Even though a bond may not be required for a specific project, the ability to provide a bond may be a deciding factor in a close race.

But there may also be unanticipated, less obvious benefits of surety support that may enure to a contractor. For instance, a bond may be a blessing to a contractor in a contract dispute on a bonded contract.

Take, for example, a dispute in which the obligee withholds payments to the bonded contractor to leverage and induce the contractor to accept an inadequate settlement of the dispute. Following a thorough investigation, the surety may determine it must support its principal's position. The surety might conclude that the obligee may be in breach of the bond from withholding payments to the principal. Under such a circumstance, the obligee might lose its rights to make a claim under the bond. The risk of possibly losing its rights under the bond may cause the obligee to have a greater interest to settle the dispute. Because a surety bond is a three-party contract, the surety may be the deciding factor in a dispute between the contractor and the obligee. Should the surety's investigation lead to the support of its principal, having a bond could be the best thing that happened to the contractor under the circumstances. ◆

The Surety Advantage: Building a Career in the Bond Business

By **D.J. Conroy**, Vice President, Surety, Berkshire Hathaway Specialty Insurance

It's a well-known though little-talked-about fact that essentially no surety professionals went to school to be a surety underwriter. Most fall into it by happenstance. My first boss studied history and English literature in college. What's more important to note is that very few leave the industry once they're in it.

Why? Because for those who like a challenge, the surety business is a terrific balance of qualitative and quantitative skills that combines communication, marketing and writing with accounting, finance, legal and negotiation proficiencies.

Construction is a relationship business, and that feature is best realized in the surety industry. Working as a surety underwriter or agent is a unique opportunity to partner with true entrepreneurs—the people who build America and take a lot of risk in doing so. The opportunity to play a role in their success is extremely rewarding.

I have been very fortunate to have found a career in surety. I grew up in a family construction business though was always drawn more to the business side, which I assumed meant accounting or finance. However, my interest in becoming a CPA died with tax courses, but I still wanted to be involved in construction. Surety just fit.

As I noted, most people who enter the surety world never leave. Those that don't make it a career use it as a stepping stone to equally interesting alternative careers as broker/agents, construction lending professionals and accountants, to name a few.

Whatever the case, surety will open doors to the fascinating world of construction. Like the rest of our industry, most sureties either are or will be looking for talent because of the growing workforce shortage. Whether you're a recent college graduate or a construction, financial or insurance professional, the surety industry could be the place for you. Give it a look! ◆

For more information, visit:
www.surety.org/career
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