



# Surety & Insurance

American Society of Professional  
Estimators

# Surety & Insurance The Background

- Historical review of Surety and Insurance
- Insurance vs. Surety
- Risk Transfer Insurance Solutions
- Surety Qualifications: Character, Capital, Capacity
- Current state of the Industry for Insurance and Surety

# Construction is an Inherently Risky Environment-Insurance a Risk Transfer Tool

- Regulatory requirement for insurance coverage-Workers Compensation
- Risk Transfer through a portfolio of coverages: General Liability, Auto Liability, Umbrella Liability, Employment Practices Liability.
- Project specific Coverage requirements: Builders Risk, Pollution, Contractors Professional Liability (E&O), Owners & Contractors Protective, Inland Marine Coverage-Installation Coverage
- Safety Plan implementation & Safe Workplace Practices an essential part of every contracting organization, allow for associated cost.
- Engage your Insurance advisor in project requirements for adherence to insurance specifications (indemnity & hold harmless clauses), limits and disclosure of associated cost.

# Construction is an Inherently Risky Environment-Insurance a Risk Transfer Tool Continued

- Recognize the differences in insurance exposures in differing contracting methods & contract conditions- Plan-Spec., Design-Build & PPEA-Virginia/P3.
- Certificate of Insurance – understanding its purpose and its limitations.
- Terms to know: Waiver of Subrogation, Primary and Non-Contributory , Additional Insured Status.

# Assessing Owner, Contracts and Financing

- Recognize the owner category: Private, State & Counties, Federal and Hybrid Variations
- Contract Content: Conditions unfavorable to success such as default, right of offset, acceptance of prime contract terms, cure notices, pay when paid/if paid, waiver of lien rights, suspension clauses, timely notice provisions, type of indemnification, waiver of surety notice and many more.
- Liquidated Damages vs. Actual Damages
- Private Financing: Funding arrangements & lender/title company requirements directed to contractors performing the work.



# Utilizing the Three C's in establishing the Contractor Surety Relationship & Support Levels

- Character-the basis cornerstone of any surety relationship. Verification of honest, trustworthy individuals conducting business is the first task of the surety underwriter. Tools include the agent representing the company, credit sources, reference material and direct verification.
- Capital-the financial standing of the company as presented by annual professionally prepared financial reports, interim financials, banking lines of credit and work in progress & completed contract data. In certain cases individual assets are also utilized and verified.
- Capacity-the broad experience of the firm and its' key staff as evidenced by resume' data. This verification process is all encompassing including nor limited to completed project reference letters, profitability studies on a project basis, project owner feedback, supplier and subcontractor references. This is an ongoing process which is continuously updated as the relationship matures.
- When the three cornerstones are established determination of individual project size and backlog are based on carrier credit parameters. This process can best be described as art versus exact science.

# Contract Bonds

- Principal-the contractor , Obligee-the owner and Obligor-the surety.
- Bid bonds 5-20% represent a firm and real obligation to enter into the proposed project. An often misunderstood potential financial penalty.
- Performance & Payment-bond obligations for contract for fulfilment according to terms of contract and satisfaction of construction cost obligations.
- Bond Rates Performance by class of work, type of contract and nature of obligation-Surety classification B, A, A-1 & Supply. These rates are modified for design-Build and project duration. The completed project is audited for final contract sum. Each surety files with the state insurance department it's own plans.
- Standard Public and AIA documents Vs. Proprietary Forms
- Related bond requirements Erosion & Sediment, VDOT Right of Way, Customs Bonds, Release of Lien, Completion Bonds, Tax Bonds.

# Surety Relationships and Bond at time of Default

- Maintain a strong working relationship with your surety and they can assist in growth and performance. Remember the silent partnership concept works best when all parties are fully informed and aligned for success.
- Sureties provide assistance in reference data, financial performance benchmarks, credit analysis and insightful information on terms and conditions.
- Claim issues arise where there is involvement of principle, early and complete disclosure with clear statement of expectations.
- Claim issues and dealing with a surety for recovery such as a subcontractor default, early and accurate information are key to satisfaction of issues of either job performance or supplier payment. Follow established protocols and utilize council where appropriate.



# Surety Basics that apply to the Daily Routine

- Effective Use of Subcontractor Bonding
- Surety Consents -release /reduction in retainage , rider for contract price alteration
- Bid Estimates – accurate initial project size
- Bid Results –the 10% rule
- Surety Company Qualifications- U S Treasury Listing, A M Best Ratings
- Reference Letters -project specific
- Warranty Provisions
- Efficiency Obligations

# Summary Thoughts and Questions

- Insurance & Risk Transfer
- Surety Bonds & Industry Outlook
- Claims & Loss Experiences