Covid-19 Industry Updates

Webinar
Thursday, April 30, 2020
Lee Covington
President & CEO
Overview of the Day

- Welcome and Thank You
- State of Play for Construction Industry
- Government Plans for Construction
- Key Congressional Discussions
- Webinar Agenda
- SFAA Team Introductions
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SFAA Team

Lee Covington
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Julie Alleyne
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Lee Ann Alexander
Vice President of Government Affairs

Dalton DeFendis
Director of Federal Government Affairs

Bill Heinbokel
Director of Fidelity & Regulatory Compliance
Julie Alleyne
VP Policy & General Counsel
Request for Emergency Action for E-Bonding

- SFAA / NASBP Survey – Significant Concerns: Execution, Corporate Seal, Notary & Technology
- Joint SFAA, APCIA and NASBP Request for Action
  - Congressional and Federal Request by Construction Procurement Coalition
  - Governors, State DOIs, and Specific Agencies
- Two asks
  1. Mandate Acceptance of all Electronically Executed and Issued Construction and Commercial Surety Bonds
  2. Waive the Notary Requirement
- Post COVID-19: What Do We Plan To Do Next?
Federal and State Advocacy - E-bonding

- Outreach
  - Congress and Federal Agencies
  - Governors / Senior Staff
  - All Commissioners of Insurance + Senior DOI staff
  - Emails to Mayors across the U.S.

- Follow-up in conjunction with NASBP
  - Board of Directors and CBOs: Letters to Governors
  - NASBP: Local Member Outreach to Governors / Public Officials
  - Local Surety Associations: Letters to Governors / Public Officials
The Response - State Agencies & E-bonding

- Excellent Responses and Reception to Request of Action
- Many Ongoing, Productive Conversations
- Questions/pushback:
  - Isn’t Remote Online Notarization (RON) Sufficient?
  - Isn’t the Uniform Electronic Transactions Act (UETA) Sufficient?
  - What Statutes and Rules Would We Need to Suspend?
  - Specific Examples of Electronic Bonding Not Being Accepted in Our State?
Status of E-bonding at Federal and States Levels

- Federal GSA Deviation - Flexibilities for Signatures and Seals on Bonds
- Companies / Brokers Using SFAAA Materials to Address Any Issues
- States With Formal Action Specific to Electronic Execution & Delivery:
  - TN Governor’s Executive Order
  - MN Department of Commerce Regulatory Guidance
  - VA Bureau of Insurance Statement
  - MI Governor’s Executive Order
  - IL Governor’s Executive Order
- 20+ States With Action to Allow Virtual Remote Notarization
- States Working Directly With Agencies to Confirm Acceptance of Electronic Signatures With Virtual Remote Notarization
- Continued Active Engagement With States – Many are Close
Collateral Benefits to Industry

- Industry Engagement on Removal of Barriers Going Forward
- Groundwork Laid for Legislation / Other Solutions After COVID
- Opportunity To Promote Value of Bonds
- Relationship Building / Putting Surety On the Map
State Legislative Update

- Focus Turned to the Coronavirus
- High State Expenditures For COVID-19
- State Budgets Are in Dire Straits
- Significant Number of COVID-19 Bills
- Reopening Processes Challenges
- States Considering Non-COVID Legislation
Dalton DeFendis
Director Federal Affairs
Federal Government COVID-19 Response

MAR 5: Federal Gov issues first COVID-19 Guidance
- Coronavirus Preparedness and Response Supplemental Appropriations Act signed into law
- $8B deal (originally set at $2.5B); funding for developing treatment and public health measures
- Approximately 100 confirmed cases 11 deaths (Axios)

MAR 16: SFAA SPONSORED H.R. 6359 INTRODUCED
- Families First Coronavirus Response Act signed into law
- Estimate $100B bill; includes free testing; two weeks of paid sick and family leave; increased federal funds for Medicaid and food security programs, like food stamps; and increased unemployment insurance benefits.
- Over 7,000 confirmed case 141 deaths (CNN)

MAR 29: Federal Gov issues COVID-19 Guidance extension
- CARES Act Signed into law
- Creates SBA Paycheck Protection Program for small business loans, provides direct payments individual taxpayers, expands unemployment benefits, and provides funding for hospitals and health care providers
- Estimated $2.2 trillion COVID-19 relief bill and the largest single economic rescue plan in the history of the U.S.
- Approximately 85,000 cases in America and nearly 1,300 deaths (CBS)

MAR 27: Phase 3
- SBA begins accepting PPP loan applications
- SBA PPP runs out of funding
- CARES Act signed into law
- Creates SBA Paycheck Protection Program for small business loans, provides direct payments individual taxpayers, expands unemployment benefits, and provides funding for hospitals and health care providers
- Estimated $2.2 trillion COVID-19 relief bill and the largest single economic rescue plan in the history of the U.S.
- Approximately 85,000 cases in America and nearly 1,300 deaths (CBS)

APR 24: Phase 3.5
- Paycheck Protection Program and Health Care Enhancement Act signed into law
- Reinjects $310B of capital into SBA Paycheck Protection Program among other provisions
- Approximately 880,000 cases and 50,000 deaths (CBS)

APR 27: SBA resumes PPP lending

Details of Phase 4 legislation (5th COVID-19 relief bill) still being worked out. Nature of pandemic makes it difficult to predict but infrastructure is on the table.
SFAA Federal COVID-19 Response

- Supporting SFAA Member Clients in Accessing SBA Paycheck Protection Program (PPP) Loans
  - Construction Industry Obtained Largest Proportion of First Rounds of PPP Loans
- Engaging With Policy Leaders and Key Congressional Staff on Infrastructure Reform to Ensure SFAA Priorities Remain “On The Table”
  - Clarify Payment and Performance Security Requirements For TIFIA Financed Projects
  - Ensure State DoT Receives Relief to Offset Revenue Loss Due to COVID-19 Pandemic
- Supporting Construction Industry Partners in Efforts to Ensure Construction Designated as “Essential”
  - Construction Industry Procurement Coalition Letter Sent to White House
- Ensuring COVID-19 Related Construction Delay Costs Do Not Adversely Impact Industry
  - Weekly Calls With Key Industry Partners
Julie Alleyne
VP Policy & General Counsel
Other COVID Issues: Delays On Existing Projects & Risk Shifting in New Construction Contracts

- Delay Issues – Private Projects Primarily Today / Public Projects Expected
  - Proactive Measures - Ohio and Michigan
- COVID-19 is Now a Known Event—Owners Shifting Burden
- New Provisions – ODoT, MDoT, LVVWA, Wayne County School District (Ohio), City of Boston

  Supplementary Conditions - “Owner and Contractor recognize the existing and potential extraordinary measures being taken by governments, companies, and individuals due to COVID-19 and the potential impacts from the same on this project. Owner shall not be liable to Contractor for extended overhead or any other delay damages, and the GMP shall not be increased, due to shortage of labor, materials, or other causes of COVID-19.”

- Positive Provisions – California Municipal Contracts

  “The contractor shall not be held liable for any impacts, delays, labor overruns, material overruns and/or cost overruns related to its work stemming from COVID-19 as defined by the U.S. Centers for Disease Control”
Other COVID Issues: Cancellation & Non-Renewal Notices and Premium Refunds

- 17 states – Mandatory / Expect / Urge
- 18 states – Request / Encourage / Recommend
- 8 New States Added to Chart, Plus Updates to 4 States
- North Carolina & Arkansas – Burden on Insured to Request vs. Insurer to Give or Offer in Most States
- 4 states - Extended Claim Notice Deadlines (Oklahoma, Oregon, South Carolina, & Texas)
- Premium Refunds – California and Washington
Bill Heinboke
Director Fidelity & Regulatory Compliance
Teleworking Security & Fraud Prevention

- Telework Vulnerabilities
  - Obtaining Software from Untrusted Sources
  - Video-Teleconferencing Compromise (VTC Hijacking, Zoom-bombing)
  - Remote Desktop Access Compromise
  - Obtaining Equipment from Unfamiliar Sources

ADVISORY

COVID-19 FRAUD:
Cyber Criminals Exploiting Company Teleworking Platforms to Access Sensitive Data
Teleworking Security & Fraud Prevention

- Social Engineering Fraud
  - Vendor Impersonation
  - Targeting Individuals Tasked With Sending Wire Transfers, Checks and ACH Transfers

- Cyber Fraud Prevention Recommendations
  - FBI Published Best Practices to Prevent Cyber-Fraud
SFAA COVID-19 Resources

- SFAA Requests for Emergency Action
  - State, Federal, & Municipal
  - Resources for Interactions With Procurement Officials
  - Links to Executed Orders / Agency Guidance

- SFAA COVID-19 Resources
  - SBA PPP Loan Step-by-Step Guidance
  - 50 State Reference Chart for Non-Renewal/Cancellation Moratoriums
  - Fidelity Advisory to Protect Against Increased Cyber Exposure

- External Links and Resources to Help you Navigate the Crisis
  - 50 State Construction Delays Map (Construction Connect)
  - 50 State Map Where Construction Deemed Essential (Construction Connect)
  - NAIC, NCOIL, & AGC COVID-19 Resources
Thank You

Questions?

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