SUCCESS: Indiana Governor Signs P3 Bonding Law

The Surety & Fidelity Association of America (SFAA)'s Vice Chair and President of CNA Insurance John Welch and SFAA President Lee Covington attend the signing ceremony for Indiana HB 1374 on June 17, 2019.

HB 1374 is a bill that amends all three of the state's public-private partnership (P3) laws to require a 100
percent payment bond and a 50 percent performance bond. The requirements will apply to P3 agreements entered into after June 30, 2019.

House Committee
Highlights Miller Act
Protections for Small Businesses

Last week the House Small Business Committee discussed the challenges and opportunities for small businesses in the federal procurement marketplace. Thomas J. DePace, COO and Senior Engineering Manager with Advance Sound Company, a Farmingdale, N.Y.-based member of the National Electrical Contractors Association (NECA), testified on behalf of the association to the House Small Business Committee Subcommittee on Contracting and Infrastructure on several pressing concerns facing contractors and presented solutions for moving forward. He advocated for the prompt payment of change orders by federal agencies, lowering the federal retainage rate and requiring bonding on public-private partnerships. The hearing served as an important opportunity to highlight the benefits of expanding Miller Act bond requirement protections for small businesses involved on P3 projects. The House Small Business Committee has been an integral partner to the SFAA on HR 224, which would prevent the Miller Act threshold from increasing to $200,000 in 2020. SFAA will continue to work with the committee to advance measures maintaining bonding protections for small businesses working in the federal procurement system.
Thirty states have considered P3 legislation in 2019 with more than 70 bills introduced to date with most large states now having a P3 law, there was a significant decline in bills with a broad authorization to use P3s. Notably, there were some significant victories this year for bonding for P3s. SFAA, APCIA, NASBP, Insurance Institute of Indiana and other industry partners worked together and obtained bonding requirements for P3s in Indiana in a new law enacted this year. SFAA, NASBP, and the Rocky Mountain Surety Association worked with the subcontractors and had legislation enacted in Colorado that requires bonding for P3s. SFAA continues to work with its industry partners in the states to address bonding requirements in P3 legislation.

Below are the P3 legislation trends that SFAA has tracked to date for 2019:

- Nine states (Connecticut, Florida, Kansas, Louisiana, Massachusetts, Mississippi, Nebraska, New Mexico, and Oregon) considered P3 bills for transportation-related projects with Florida passing legislation for corridor and expressway projects.
- Eleven states (California, Hawaii, Illinois, Indiana, Massachusetts, Mississippi, Missouri, New Jersey, New York, Texas, and Wisconsin) considered bills for specific kinds of P3 projects with enactments in Illinois, Indiana, Missouri, New York, and Texas.
- P3s are increasingly being considered to address access to broadband wireless services. Ten states (Arkansas, Hawaii, Mississippi, Nebraska, New Mexico, New York, North Carolina, Oregon, Vermont, and Washington) considered such bills this year, with enactments in Arkansas, Nebraska, and Vermont.
- Seven states (Connecticut, Delaware, Hawaii, Louisiana, Maine, Oregon, and Texas) considered bills for studying the use of P3s to address infrastructure needs, with enactments in Delaware, Louisiana, and Maine.
- Four states (Hawaii, New York, Oregon, and Washington) considered infrastructure grant and financing programs for which P3s would eligible to obtain these funds, with Washington enacting such a program.

Reminder: Call for Data

Reminder: The SFAA has sent a data request for claim and loss information by contractors from all SFAA members for use in updating our Construction Loss Severity model. Submissions are due by September 1, 2019 and should be uploaded via our website.
The Surety & Fidelity Association of America (SFAA) is a trade association of more than 425 insurance companies that write over 98 percent of surety and fidelity bonds in the U.S. SFAA is licensed as a rating or advisory organization in all states and it has been designated by state insurance departments as a statistical agent for the reporting of fidelity and surety experience.