Form "A-12"

SURETY BOND PROGRAM
As printed in Small Business Administration Guide June 2000
The Program

The U.S. Small Business Administration (SBA) can guarantee bonds for contracts up to $1.25 million, covering bid, performance and payment bonds for small and emerging contractors who cannot obtain surety bonds through regular commercial channels. SBA's guarantee gives sureties an incentive to provide bonding for eligible contractors, and thereby strengthens a contractor's ability to obtain bonding and greater access to contracting opportunities. A surety guarantee, an agreement between a surety and the SBA, provides that SBA will assume a predetermined percentage of loss in the event the contractor shall breach the terms of the contract.

Definition of a Surety Bond

A surety bond is a three-party instrument between a surety, the contractor and the project owner. The agreement binds the contractor to comply with the terms and conditions of a contract. If the contractor is unable to successfully perform the contract, the surety assumes the contractor's responsibilities and ensures that the project is completed. Below are the four types of contract bonds that may be covered by an SBA guarantee:

1. Bid – Bond which guarantees that the bidder on a contract will enter into the contract and furnish the required payment and performance bonds.
2. Payment – Bond which guarantees payment from the contractor of money to persons who furnish labor, materials equipment and/or supplies for use in the performance of the contract.
3. Performance – Bond which guarantees that the contractor will perform the contract in accordance with the terms.
4. Ancillary – Bonds which are incidental and essential to the performance of the contract.

Eligibility

A contractor applying for an SBA bond guarantee must qualify as a small business, in addition to meeting the surety's bonding qualifications. Businesses in the construction and service industries can meet SBA's size eligibility standards if their average annual receipts, including those of their affiliates, for the last three fiscal years do not exceed $5 million. Local SBA offices can answer questions dealing with size standard eligibility.

Types of Eligible Bonds

Bid bonds and final bonds are eligible for an SBA guarantee if they are executed in connection with an eligible contract and are of a type listed in the "Contract Bonds" section of the current Manual of Rules, Procedures and Classifications of the Surety Association of America (SAA). Ancillary bonds may also be eligible for SBA's guarantee. (For further information and clarifications, please contact our nearest field office).

Size of Eligible Contracts

The SBA can guarantee bonds for contracts up to $1.25 million.

SBA Guarantee

The SBA reimburses a participating surety (within specified limits) for the losses incurred as a result of a contractor's default on a guaranteed bid bond, payment bond, performance bond or any bond that is ancillary with such a bond. Activity is accomplished through the Prior Approval program or the Preferred Surety Bond (PSB) program.

Under the Prior Approval program, the agent reviews the application package and recommends it to the surety company for approval. If the surety company agrees to issue a bond with the SBA guarantee, the package is forwarded to the appropriate SBA/SBG Area Office and evaluated by SBG personnel. If the applicant is determined to be qualified and approval is reasonable in light of the risk, SBA may issue a guarantee to the surety company. The surety then issues the bond to the contractor. SBA's guarantee agreement is with the surety company not with the small business contractor.

Form "A-12"

Any surety company certified by the U.S. Treasury to issue bonds may apply for participation in the Prior Approval program, but its bonds are subject to SBA's prior review and approval. Contractors bonded under this program are generally smaller and less experienced than contractors bonded under the Preferred Surety Bond (PSB) program. To compensate surety companies for the risk associated with bonding Prior Approval contractors, SBA guarantees 90 percent of the losses incurred on bonds up to $100,000 and on bonds to socially and economically disadvantaged contractors, and 80 percent of the losses incurred on all other bonds under this program.