



NATIONAL ASSOCIATION OF SURETY BOND PRODUCERS

7735 Old Georgetown Road, Suite 900

Bethesda, MD 20814

Tel: 240.200.1270

Fax: 240.200.1295

www.nasbp.org

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Mr. Jermanne Perry
Management Analyst
Office of Surety Guarantees
U.S. Small Business Administration (SBA)
409 Third Street SW, 8th Floor
Washington, DC 20416

Submitted via Federal eRulemaking Portal: <http://www.regulations.gov>

RE: RIN 3245-AH08, Docket Number 2021-20401

Dear Mr. Perry:

On behalf of the National Association of Surety Bond Producers (NASBP),¹ I am contacting you to submit comments on the proposed revisions to the SBA's Surety Bond Guarantee Program (Program). NASBP has a successful long-term working relationship with the SBA Office of Surety Guarantees and thoroughly believes that the Program provides a valuable service to those emerging contractors who may otherwise fail to qualify for surety credit in the standard market.

NASBP lauds the SBA for continuing to make enhancements to the Program, which in turn has created greater opportunities for small and emerging contractors in obtaining bonding to bid on public construction projects and to grow their respective businesses. These enhancements included increasing the contract size up to \$6.5 million, and up to \$10 million for federal contracts with the contracting officer's certification, vesting discretion with the SBA Administrator to determine the Program's liabilities, and increasing the guarantee up to 90% for surety companies. All these enhancements have greatly improved the Program and bolstered the Program's participation among small and emerging contractors, surety bond producers, and surety companies.

Additionally, NASBP would like to thank the SBA for its active role in making permanent rule that reduced the fees charged to sureties and contractors who secure surety bonds through the Program. Permanently reducing the fees will help create greater opportunities for small and emerging contractors in obtaining bonding to bid on public construction projects to grow their businesses. Furthermore, it should help stimulate greater corporate surety and surety bond producer participation, providing further access to the corporate surety markets to small businesses that otherwise do not qualify for surety credit in the standard market. Aligning emerging, small businesses with safe, regulated surety markets interested in their long-term growth and success should be a desired and realized outcome of the fees' reduction.

¹ The National Association of Surety Bond Producers is a national trade association whose membership includes firms employing licensed surety bond producers placing bid, performance, and payment bonds throughout the United States and its territories.

In accordance with *RIN 3245-AHO8*, NASBP would like to comment on the following:

- **Section 115.10.** NASBP supports clarifying the definition of ancillary maintenance agreements and expanding the definition of “Contract” to include stand-alone maintenance agreements. Maintenance bonds can be structured as an annual renewable performance bond. The need for the Program to cover such bonds was raised by a small contractor participant at a bonding awareness education program.
- **Section 115.12.** NASBP supports streamlining paragraph (e)(3) to require only that the Contracting Officer certify that the guarantee is necessary. The current requirements are burdensome and slow down the process.
- **Section 115.30.** NASBP supports the proposed change to paragraph (d)(2) to increase the maximum amount of the contracts for which a Prior Approval Surety would be permitted to use the Quick Bond Guarantee Application and Agreement from \$400,000 to \$500,000. This change aligns with current surety industry practice for quick/fast bond application limits. Please keep in mind that participating sureties may still want to review some financial information should a contractor have questionable credit history. The proposed change does make the approval process easier and faster and provides greater opportunity for small businesses.
 - Regarding paragraph (d)(2)(ii)(D), NASBP would suggest that the Program consider using a sliding scale approach for liquidated damages instead of increasing the maximum of up to \$1,000 per day to a maximum of up to \$2,500 per day. This scale could be based on the contract size and would align with current surety industry practices.

NASBP believes these proposed reforms offer a continued enhancement to the Program and will create further opportunities for small and emerging businesses. Thank you for your consideration of our comments.

If you have any questions, please feel free to contact me directly at 240-200-1272 or at lleclair@nasbp.org.

Respectfully submitted for your consideration,



Lawrence E. LeClair
Director, Government Relations