

§ 115.31

13 CFR Ch. I (1–1–17 Edition)

(1) *Surety Bond Guarantee Agreement (SBA Form 990)*. A Prior Approval Surety may complete and submit a Surety Bond Guarantee Agreement (SBA Form 990) to SBA for each Bid Bond or Final Bond, and this Form must be approved by SBA prior to the Surety's Execution of the bond, except in the case of a surety bonding line approved by SBA under §115.33(d). The guarantee fees owed in connection with Final Bonds must be paid in accordance with §115.32.

(2) *Quick Bond Guarantee Application and Agreement (SBA Form 990A)*—(i) *General procedures*. Except as provided in paragraph (d)(2)(ii) of this section, a Prior Approval Surety may complete and submit the Quick Bond Guarantee Application and Agreement (SBA Form 990A) to SBA for each Bid Bond or Final Bond, and this Form must be approved by SBA prior to the Surety's Execution of the bond. SBA Form 990A is a streamlined application form that may be used only for contract amounts that do not exceed \$250,000 at the time of application. The guarantee fees owed in connection with Final Bonds must be paid in accordance with §115.32.

(ii) *Exclusions*. SBA Form 990A may not be used under the following circumstances:

(A) The Principal has previously defaulted on any contract or has had any claims or complaints filed against it with any court or administrative agency;

(B) Work on the Contract commenced before a bond is Executed;

(C) The time for completion of the Contract exceeds 12 months;

(D) The Contract includes a provision for liquidated damages that exceed \$1,000 per day;

(E) The Contract involves asbestos abatement, hazardous waste removal, demolition, or timber sales; or

(F) The bond would be issued under a surety bonding line approved under §115.33.

[61 FR 3271, Jan. 31, 1996, as amended at 77 FR 41665, July 16, 2012; 79 FR 2087, Jan. 13, 2014]

§ 115.31 Guarantee percentage.

(a) *Ninety percent*. SBA reimburses a Prior Approval Surety for 90% of the Loss incurred and paid if:

(1) The total amount of the Contract at the time of Execution of the bond is \$100,000 or less; or

(2) The bond was issued on behalf of a small business owned and controlled by socially and economically disadvantaged individuals, on behalf of a qualified HUBZone small business concern, or on behalf of a small business owned and controlled by veterans or a small business owned and controlled by Service-disabled veterans.

(b) *Eighty percent*. SBA reimburses a Prior Approval Surety in an amount not to exceed 80% of the Loss incurred and paid on bonds for Contracts in excess of \$100,000 which are executed on behalf of non-disadvantaged concerns.

(c) *Contract increase to over \$100,000*. If the Contract amount increases to more than \$100,000 after Execution of the bond, the guarantee percentage decreases by one percentage point for each \$5,000 of increase or part thereof, but it does not decrease below 80%. This provision applies only to guarantees which qualify under paragraph (a)(1) of this section.

(d) *Contract or Order increases exceed Applicable Statutory Limit*. If the Contract or Order amount is increased above the Applicable Statutory Limit after Execution of the bond, SBA's share of the Loss is limited to that percentage of the increased Contract or Order amount that the Applicable Statutory Limit represents multiplied by the guarantee percentage approved by SBA. For example, if a contract amount increases to \$6,800,000, SBA's share of the loss under an 80% guarantee is limited to 76.5% [$6,500,000/6,800,000 = 95.6\% \times 80\% = 76.5\%$].

(e) *Contract or Order decrease to \$100,000 or less*. If the Contract or Order amount decreases to \$100,000, or less, after Execution of the bond, SBA's guarantee percentage increases to 90% if the Surety provides SBA with evidence supporting the decrease and any other information or documents requested.

[61 FR 3271, Jan. 31, 1996, as amended at 64 FR 18324, Apr. 14, 1999; 66 FR 30804, June 8, 2001; 72 FR 34599, June 25, 2007; 74 FR 36110, July 22, 2009; 79 FR 2087, Jan. 13, 2014]