

§ 115.15

(1) Legal action under the guaranteed bond has been initiated.

(2) The Obligee has declared the Principal to be in default under the Contract.

(3) The Surety has established a claim reserve for the bond of at least \$1000.

(4) The Surety has requested reimbursement for Losses incurred under the bond.

(5) The guarantee fee has not been paid by the Principal.

(6) The Principal committed fraud or material misrepresentation in obtaining the guaranteed bond.

(b) *Reinstatement of Principal's eligibility.* Prior Approval Sureties should refer to §115.36(b) for provisions on reinstatement of the Principal's eligibility. A PSB Surety may reinstate a Principal's eligibility upon the Surety's determination that reinstatement is appropriate.

§ 115.15 Underwriting and servicing standards.

(a) *Underwriting.* (1) Sureties must evaluate the credit, capacity, and character of a Principal using standards generally accepted by the surety industry and in accordance with SBA's Standard Operating Procedures on underwriting and the Surety's principles and practices on unguaranteed bonds. The Principal must satisfy the eligibility requirements set forth in §115.13. The Surety must reasonably expect that the Principal will successfully perform the Contract to be bonded.

(2) The terms and conditions of the bond and the Contract must be reasonable in light of the risks involved and the extent of the Surety's participation. The bond must satisfy the eligibility requirements set forth in §115.12(b). The Surety must be satisfied as to the reasonableness of cost and the feasibility of successful completion of the Contract.

(b) *Servicing.* The Surety must ensure that the Principal remains viable and eligible for SBA's Surety Bond Guarantee Program, must monitor the Principal's progress on bonded Contracts guaranteed by SBA, and must request job status reports from Obligees of Final Bonds guaranteed by SBA. Docu-

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mentation of the job status requests must be maintained by the Surety.

§ 115.16 Determination of Surety's Loss.

Loss is determined as follows:

(a) *Loss under a Bid Bond* is the lesser of the penal sum or the amount which is the difference between the bonded bid and the next higher responsive bid. In either case, the Loss is reduced by any amounts the Surety recovers by reason of the Principal's defenses against the Obligee's demand for performance by the Principal and any sums the Surety recovers from indemnitors and other salvage.

(b) *Loss under a Payment Bond* is, at the Surety's option, the sum necessary to pay all just and timely claims against the Principal for the value of labor, materials, equipment and supplies furnished for use in the performance of the bonded Contract and other covered debts, or the penal sum of the Payment Bond. In either case, the Loss includes interest (if any), but Loss is reduced by any amounts recovered (through offset or otherwise) by reason of the Principal's claims against laborers, materialmen, subcontractors, suppliers, or other rightful claimants, and by any amounts recovered from indemnitors and other salvage.

(c) *Loss under a Performance Bond* is, at the Surety's option, the sum necessary to meet the cost of fulfilling the terms of a bonded Contract or the penal sum of the bond. In either case, the Loss includes interest (if any), but Loss is reduced by any amounts recovered (through offset or otherwise) by reason of the Principal's defenses or causes of action against the Obligee, and by any amounts recovered from indemnitors and other salvage.

(d) *Loss under an Ancillary Bond* is the amount covered by such bond which is attributable to the Contract for which guaranteed Final Bonds were Executed.

(e) *Loss includes* the following expenses if they are itemized, documented and attributable solely to the Loss under the guaranteed bond:

(1) Amounts actually paid by the Surety which are specifically allocable to the investigation, adjustment, negotiation, compromise, settlement of, or resistance to a claim for Loss resulting