

**MEMORANDUM OF AGREEMENT
BETWEEN
THE U.S. DEPARTMENT OF TRANSPORTATION
OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION
AND
THE SURETY & FIDELITY ASSOCIATION OF AMERICA**

I. BACKGROUND AND OBJECTIVES

A. The Parties to this Agreement

This Memorandum of Agreement (MOA) is between the U.S. Department Transportation (DOT) Office of Small and Disadvantaged Business Utilization (OSDBU) and The Surety & Fidelity Association of America (SFAA), known herein as ("the parties"). SFAA is a voluntary, non-profit trade association. Membership in The Surety & Fidelity Association of America is open to companies that are licensed to engage in the business of surety or fidelity bonding, or as a reinsurer. SFAA acts as a clearinghouse of information; educating, informing and providing services to its members and the general public to promote the value and use of fidelity and surety bonds. SFAA performs a leadership educational role in increasing access to surety bonding.

B. Authority

DOT, through the Minority Resource Center (MRC), is authorized under Public Law No. 97-449, Title 49, of the United States Code, Section 332 to develop outreach and training programs to assist small and disadvantaged businesses,¹ and those certified under CFR 49 parts 23 and or 26 as Disadvantaged Business Enterprises (DBE) to compete for contracts and subcontracts on transportation-related² opportunities.

This MOA does not prohibit either party from entering into similar agreements with any other party to fulfill the purposes and objectives of this MOA. Notwithstanding Section II of this MOA, the parties acknowledge that under such other agreements, SFAA may receive compensation for the performance of such agreements. In addition, this MOA does not create rights of any third parties.

¹Hereafter, the term small business will refer to: 8(a), small disadvantaged business (SDB), disadvantaged business enterprises (DBE), women owned small business (WOB), HubZone, service disabled veteran owned business (SDVOB), and veteran owned small business (VOSB).

²The maintenance, rehabilitation, restructuring, improvement, or revitalization of any of the nation's modes of transportation.

C. Recital of Purpose

The principal purpose of this MOA is for SFAA to assist DOT to design, develop and implement a component of the DOT OSDBU Bonding Education Program (BEP). The BEP is a surety bond assistance program to provide bonding education, placement, and technical assistance to small businesses competing for, or awarded, transportation-related contracts. The BEP will educate small businesses to become "bond ready" to obtain surety bonds and thereby meet the requirements to successfully secure awards of transportation-related contracts.

D. Specific Objectives

Utilize members of the surety industry to:

- (1) Educate small businesses specializing in transportation-related construction and construction-related goods and services about the bonding process; and
- (2) Assist those small businesses to qualify for and have access to bonding or increase their bonding capacity.

II. FUNDING

SFAA will receive no Federal funds under this MOA. Each party will be responsible for their own expenditures incurred as a result of the activities under this MOA. Participation by DOT is subject to the availability of appropriations. Likewise, participation by SFAA may be subject to availability of funds.

III. STATEMENT OF WORK

SFAA agrees to assist DOT to develop a component of the BEP based on SFAA's Model Contractor Development Program (MCDP) as described in Attachment A. SFAA will support the BEP to garner participation of private sector surety bond industry professionals. The program will assist small businesses specializing in the maintenance, rehabilitation, improvement, or revitalization of any of the nation's modes of transportation to obtain surety bonds and provide information on how to secure surety bonds for transportation-related contracts. Both parties agree that in performing its activities and functions set forth in this MOA, SFAA is not a contractor of DOT or OSBDBU.

- A. The joint DOT and SFAA component of the BEP shall include, but not be limited to, the following:

Program Parameters

- (1) SFAA shall coordinate, facilitate, and/or provide access to resources of the SFAA to assist DOT to fully and successfully implement all aspects of this program.
 - (2) SFAA shall assist OSDBU to employ an Educational Workshops component based upon the MCDP to facilitate access to bonding and technical assistance for small businesses bidding on, or seeking to bid on, transportation-related contracts. SFAA will support the BEP to garner participation of private sector surety bond industry professionals.
 - (3) SFAA shall assist OSDBU to employ a Bond Readiness component based upon the MCDP, to include networking and outreach, capability/capacity assessments, resource identification and referral, and assistance in the bonding process.
 - (4) SFAA shall establish peer reviews whereby small businesses are teamed up with members of the surety industry to review their ability to be bonded. SFAA will identify and develop a strategy and a prescriptive plan to address any potential denial factors apparent from each small business' profile and bonding package that are reviewed.
 - (5) SFAA shall monitor the implementation of each small business' prescriptive plan through the successful application for bonding.
- B. OSDBU shall utilize the services of its Small Business Transportation Resource Center (SBTRC) Program, to conduct on-going outreach to inform the small businesses about the BEP. In addition, DOT will provide assistance to help identify and recruit companies that could benefit from program participation.
- C. OSDBU shall utilize the services of its SBTRC Program to provide technical assistance in areas such as project management, job costing, finance, and accounting to small businesses who need assistance beyond education and training, prior to applying for bonding.
- D. OSDBU shall, with SFAA's assistance as needed, coordinate every aspect of this component of the BEP implementation and execution to ensure that it is managed efficiently, including, but not limited to, such operational matters as conducting intake and assessment for bonding; assembling company profiles and bonding packages; and providing monthly, quarterly or other periodic reports that may be necessary for the program's success.

IV. TERM OF AGREEMENT

This MOA will commence upon the date set forth below and will be in effect for two years thereafter unless terminated as provided in Paragraph V of this MOA.

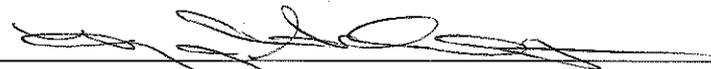
V. TERMINATION

This MOA may be terminated by either party with or without cause by giving thirty (30) days written notice to the other party. This MOA may be amended only by written mutual consent of the parties.

VI. PARTIES EXECUTING THIS AGREEMENT

This MOA is entered into this 16th day of March, 2010 by the United States Department of Transportation, Office of Small and Disadvantaged Business Utilization Washington, DC and by The Surety & Fidelity Association of America, Washington, DC

By: 
Brandon Neal, Director
Office of Small and Disadvantaged Business Utilization
U.S. Department of Transportation

By: 
Lynn M. Schubert, President
The Surety & Fidelity Association of America

Attachment A: Bonding Education Program Description

BONDING EDUCATION PROGRAM WORKSHOPS

A partnership between the US Department of Transportation
Office of Small and Disadvantaged Business Utilization

And

The Surety and Fidelity Association of America Model Contractor Development Program
(MCDP)

Program Description

March 2010

This phase of the Bonding Education Program (BEP) is composed of two interrelated components:

- (1) The Educational Workshops Component offers a set of ten workshops: 1) an introductory workshop on intake and logistics; 2) eight comprehensive workshops, each of which is designed to provide information to the contractors related to improving their company's operations and thereby making it easier to be bonded or to increase their bonding capacity; and 3) a closing workshop focused on networking and next steps. At its discretion, DOT may choose to combine workshops in order to shorten the time required for this component. A brief description of the ten workshops follow:

- **Kick-Off: Program Description and Initial Intake**

This workshop includes an overview of the Bonding Education Program and its implementation; a presentation of current procurement opportunities; and the scheduling of an initial intake interview with a local surety bond professional.

- **Business Planning and Management for Construction**

This workshop focuses on such areas as assessing or reassessing the legal form of the company, developing a succession/business continuation plan, managing and controlling growth, and assembling a business team. Subjects covered include legal and corporate structures, certifications, licenses, permits, establishment of goals and objectives for a business plan, and issues related to company management, policies and procedures, and staffing. The team-building portion of the workshop describes: 1) the importance of choosing the right construction lawyer, accountant, banker, insurance agent, and producer; 2) how to identify them; 3) why they are important; 4) what role these individuals will play and how they interrelate, 5) what they will expect from the small business; and 6) how their involvement contributes to the small business' overall success.

- **Construction Accounting and Financial Management**
This workshop focuses on basic construction accounting concepts and will provide an overview, from job costing to financial reporting, as well as construction-specific practices that introduce the small businesses to construction accounting fundamentals. These fundamentals include: 1) debits and credits and how they work; 2) accounting for job cost; 3) work-in-progress (WIP) schedules; 4) percentage-of-completion revenue recognition; and 5) development of financial statements.
- **Banking and Financing for Transportation-Related Small Businesses**
This workshop addresses the need for capital equipment financing, how to determine working capital requirements, the use of lines of credit, and the need to establish a banking relationship.
- **Bonding and Insurance for New and Emerging Transportation-Related Small Businesses**
This workshop focuses on: 1) the definition of surety bonds and the various types of surety bonds; 2) how to begin the process of obtaining a bond; 3) the role of the agent/producer and the underwriter; 4) the prequalification process; 5) the 3 "C's", capital, capacity and character; 6) the costs of bonding; and 7) how to develop a surety bond relationship. The workshop also covers the various types of insurances required (commercial general liability, Workers Compensation, etc.) and what to look for in an insurance agent relationship. In addition, the workshop covers other bonding assistance programs, such as the SBA Bond Guarantee and Loan Programs, relevant state bond guarantee and loan programs, and any local bonding or financial support programs that might be available for emerging transportation-related small businesses.
- **Marketing, Estimating and Bidding**
The marketing portion of this workshop focuses on: 1) identifying core company capabilities and determining company capacity; 2) developing a marketing plan; 3) identifying targets of opportunity; and 4) making sales calls and visits. The estimating and bidding portion of the workshop covers: 1) methods of computing measurements, including off-the-shelf estimating software, metric conversions, and essential mathematical formulas for estimating; 2) planning construction projects; and 3) preparation of bid documents.
- **Project Management and Field Operations**
The project management portion of this workshop focuses on project-specific activities, including hands-on advice at the job site. The workshop covers: 1) plan reading; 2) types of contracts (lump sum, cost plus fee, etc.); 3) common contract forms; 4) project planning methods; 5) job costing and scheduling; 6) management of subcontractors; 7) the proper expedition of change orders; and 8) measuring project performance. The field operations portion of this workshop covers setting up the job site and on-going job site operations.

- **Claims and Dispute Resolution**

This module focuses on: 1) mechanic's liens; 2) the claims process under Miller Act payment bonds; 3) the various mediation services and approaches available to a contractor in a dispute; 4) the arbitration provision in standard form construction contracts and what it means; and 5) when and under what circumstances is litigation considered.

- **“Success Stories: - Why Some Contractors Succeed and Others Fail**

This workshop identifies the most common reasons why contractors, especially small contractors, fail. The workshop also provides suggestions and approaches as to how to avoid these situations and various management approaches and techniques that will help to ensure the small business's success. In conducting this workshop, the instructor will present “real world” examples of contractors who have succeeded, what pitfalls they were able to avoid and how.

- **Conclusion of Workshop Component and Opportunity Networking**

This workshop is the conclusion of the educational component of the program and focuses on solidifying the bondability of the contractor and exploiting contracting opportunities through contacts and networking.

- (2) The Bond Readiness Component consists of one-on-one interactions with surety bond producers, underwriters and other professionals. The surety bond professionals will work with the small businesses on a case-by-case basis to assemble the materials necessary for a complete bond application and address any omissions and/or deficiencies that might impede the successful underwriting of a bond. To deliver this component, SFAA joins with a state or local partner and uses the network of local surety associations (LSAs) to identify one or more surety professionals in the local area who will volunteer to assist the small businesses to become bondable or increase their bonding capacity. In addition, the local partner is encouraged to identify the resources to assign a full-time staff person with surety experience or contract with a surety consultant to coordinate the program at the local level.

Under this component, the local surety association member(s) work with the local jurisdiction and its staff/consultant to establish a bond readiness team ideally comprised of a surety agent, an underwriter, and other professionals as needed. Other professionals may be an accountant, banker, attorney, or technical assistance provider. The team will first develop procedures for the review of the small businesses bonding applications and establish protocols to ensure the confidentiality of their business information. Next, the team or a team member will meet with each small business on an individual basis to assemble a profile of the company, including financials and job performance history. In the event this information is incomplete, the team or the team member will assist the small business to assemble a more thorough package for assessment. The team or the team member will then review the small business's financials and/or performance history to identify issues that may lead to the denial of bonding. After this step, the team or the team member will identify those factors that would potentially make the small business bondable and develop a strategy to address each of these factors, including referring the small business to specialized project management, accounting, or financing assistance. Lastly, the team or the team member will

help the small business to identify and secure bonding for subsequent projects. A similar approach will be taken for those small businesses that need an increase in bonding capacity in order to bid as prime contractors or to take advantage of larger subcontracting opportunities.

To recap of the specific steps of this bond readiness component:

- Initial Intake Interview – LSA team or team member
- Assembling the Company Profile and Bonding Package – Contractor and LSA team or team member
- Assessing Company Bondability – LSA team or team member
- Prescribing Remedies for Bondability – LSA team or team member
- Referrals and Technical Assistance – LSA team or team member
- Support in the Bond Application Process – bond agent/producer