TABLE OF CONTENTS

Surety Bond Guarantee Program for Small Contractors

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Sec. 32-55-1. Definitions

(a) Commissioner means the Commissioner of Economic Development.

(b) Department means the Department of Economic Development.

(c) Small Contractor means a contractor or subcontractor who has been engaged in construction, manufacturing or services, and who has been doing business in Connecticut and maintained his principle place of business in Connecticut for a period of not less than one year prior to the date of the Surety Bond Guarantee application, and whose gross revenues for the most recently completed fiscal year did not exceed the amount specified in subsection (2) of Section 32-49 of the General Statutes.

(d) ''Surety Bond Guarantee'' means a Guarantee by the State pursuant to Section 32-49 of the General Statutes, as administered by the Department, of a Surety against loss as the result of the breach of the terms of a Bid Bond, Performance Bond or Payment Bond.

(Effective May 28, 1985)

Sec. 32-55-2. Eligibility

In order to be eligible for a Surety Bond Guarantee, the applicant must:

(a) be a Small Contractor as defined in these regulations;

(b) demonstrate, to the satisfaction of the Commissioner, independent ownership and operation;

(c) represent that a bond is required in order to bid on a contract or to serve as a prime contractor or subcontractor thereon;

(d) represent that a bond is not obtainable on reasonable terms and conditions without the Department's Bond Guarantee assistance;

(e) represent that such applicant is not the principal on any existing bond guaranteed under the Department's Surety Bond Guarantee Program; and

(f) file an application for Surety Bond Guarantee assistance on Department Surety Bond Guarantee application forms and include any additional information required in supporting schedules and forms;

(g) the application shall be submitted to a representative of a Surety in duplicate, with all other supporting material. The representative will forward one copy to the Department and one copy to the Surety.

(Effective May 28, 1985)

Sec. 32-55-3. Guarantee agreement

Any agreement by the Department to guarantee a Surety Bond Guarantee shall provide that:

(a) the Surety shall represent that the terms and conditions of such bond when executed by it will be in accord with those executed by professional Sureties for that type of contract for which such bond is required to be furnished by principal;

(b) the Surety shall affirm that without the Department guarantee to the Surety, it will not issue said bond to principal;

(c) the term ''loss'' shall mean any and all liability, damages, court costs, counsel fees, charges and expenses of whatever kind or nature which the Surety shall or may at any time, sustain or incur by reason, or consequence, of having executed the bond guaranteed by the Department;

(d) unless otherwise agreed, the Surety shall take charge of all claim matters arising under said bond; determine its liability and the amount thereof; compromise, settle or defend any claim or suit; and take such action as it deems necessary to minimize loss; and

(e) the Surety shall pay the Department 20 percent of its bond premium for and in consideration of the Department's agreement to issue the Surety Bond Guarantee contemplated by the agreement. It shall be further agreed by the Department and the Surety that, the Surety will pay the Department an amount equal to 20 percent of the additional premiums on any increase in the contract price and the Department will make a refund to the Surety an amount equal to 20 percent on any premium reduction resulting from a reduction in the contract price. When the Department's or Surety's share of any premium increase or decrease is $10.00 or less, there shall be no adjustment.

(Effective May 28, 1985)

Sec. 32-55-4. Guarantee fees

(a) A small contractor on whose behalf a Surety Bond Guarantee has been issued shall pay to the Department a guarantee fee not to exceed the lesser of (1) five-tenths of one percent (5/10 of 1%) of the contract face value; or (2) One Hundred Thirty-Five Dollars ($135).

(b) The Surety shall pay to the Department a Surety Bond Guarantee fee of 20 percent of the bond premium subject to adjustment as described in these regulations.

(c) Each application for a Surety Bond Guarantee submitted to the Department shall be accompanied by an application fee of $10 from the Small Contractor on whose behalf a Surety Bond Guarantee is sought. Such fee shall not be refundable in the event the application is rejected.

(d) The Department accepts the bond premium rates listed in the contract section of the Surety Association of America's ''Rating Manual.'' The Department will accept Surety Bond Guarantee requests from Surety companies charging more than ''Rating Manual'' rates; provided, that their premium rates have been authorized by the Department of Insurance of the State of Connecticut.

(e) The Department will not participate in any Surety Bond Guarantee in which either the Surety company or the Surety's representative (including agent/brokers) charge any other fee above and beyond the stated premium for services, processing, etc., except those permitted by the Department of Insurance of the State of Connecticut. The Department shall not receive any portion of such non-premium charges.

(Effective May 28, 1985)

Sec. 32-55-5. Approval or decline of application

(a) No application for a Surety Bond Guarantee shall be approved unless the following determinations have been made by the Department.

(i) That there is a reasonable expectation that the applicant will perform the covenants and conditions of the contract with respect to which a Surety Bond Guarantee is required;

(ii) That the successful completion of the contract is feasible and the cost of such completion reasonable;

(iii) That the terms and conditions of any Surety bond guaranteed are reasonable in light of the risks involved and the extent of the Surety's participation.

(b) Surety Bond Guarantees for bid bonds shall obligate the State to pay the Surety a sum not to exceed the lesser of (1) 90 percent of the loss incurred by the Surety in fulfilling the terms of its bond as a result of the breach by the principal of its contract; or (2) $10,000.

(c) Surety Bond Guarantees of performance and payment bonds shall obligate the State to pay the Surety a sum not to exceed the lesser of (1) 90 percent of the loss incurred by the Surety in fulfilling the terms of its bond as a result of the breach by the principal of its contract; or (2) $100,000.

(d) An application for a Surety Bond Guarantee shall be approved or approval shall be declined within 15 working days of receipt by the Department of Economic Development of the completed Surety Bond Guarantee application forms, including all additional information required in supporting schedules and forms and the application fee of $10.

(Effective May 28, 1985)

Sec. 32-55-6. Allocation to minority business enterprise

(a) As of July 1 of each year a total of twenty five percent of funds available shall be set aside for Minority Bond Guarantees.

(b) Upon completion of a fiscal year, a review is made to determine compliance.

(c) The cumulative percentage of Surety Bond Guarantees to Minority Business Enterprises relative to the total Surety Bond Guarantees shall be determined. If such percentage is less than twenty five percent, an amount equal to twenty five percent plus the amount equal to the previous year's short fall shall be set aside for the coming year.

(Effective May 28, 1985)