



South East World Wide (Chicago) Ltd.

Questions and Answers on CBP Bonds

What is a CBP bond?

A CBP bond is a contract that is given to insure the performance of an obligation or obligations imposed by law or regulation. A bond is like an insurance policy that guarantees payment to U.S. Customs and Border Protection (CBP) if a required act is not performed. Bonds have a number of uses in CBP. The most common use allows importers to take possession of their goods before all CBP formalities are completed. Another common use allows a carrier to move goods under bond from one place to another before those goods are actually entered for consumption with duties paid.

All parties that import merchandise into the United States for commercial purposes or transport imported merchandise through the United States must have a CBP Bond.

What is CBP's legal authority to require bonds?

CBP has the authority to require bonds under title 19, United States Code, section 1623. Most Customs bonds are taken under that authority. In addition, there are a few statutes that specifically require Customs to get a bond from a person who wants to engage in certain transactions.

Who are the parties to a Customs bond?

There are three parties to a CBP bond: the *principal*, the *surety* and the *beneficiary*. The principal on a bond can be an importer, a broker, a carrier, a bonded warehouse proprietor, a foreign trade zone operator or any one of a number of other parties that seek to do business with CBP. The principal gives the bond to CBP to insure satisfactory performance of obligations that it undertakes. The surety is normally an insurance company that has been authorized by the Department of the Treasury to write CBP bonds. The surety agrees to pay any liability that might arise from the principal's failure to perform its obligations. The principal and surety are also known as the bond obligors. CBP is the beneficiary on all the bonds it authorizes.

What formalities are associated with a Customs bond?

CBP bonds must be in writing and be signed by the bond obligors. To reduce the possibility of error, the signature of a bond obligor who signs as an individual must be witnessed by two other persons. Since a corporation is a legal person rather than a natural person, a different means of identification is used for a corporation. A corporate officer, whose authority to sign

for the corporation is shown by a document known as a power of attorney, may sign a CBP bond for the corporation. No witnesses are required when bonds are executed by properly authorized officers or agents of a corporate principal.

Sometimes the law of the state where the corporate officer signs requires bonds signed for a corporation to have a seal affixed. Some corporate charters require that any bond to which the corporation is a party must have a seal affixed. CBP bonds need not be sealed unless the law of the state or the corporate charter or governing by-laws require one. These requirements apply to bond principals and sureties.

The CBP Form 301 is the bond form that is signed by the bond principal and surety.

What are the main types of bonds?

Continuous Transaction Bond

A continuous bond is normally obtained by importers who have a large number of entries and/or imports through several ports of entry during a given year. They are also obtained by international carriers who frequently arrive and depart the CBP territory and by custodians of merchandise who do business with CBP on a regular basis. It has a term of one year and is automatically renewed each year. A continuous bond is valid until it is terminated by the surety or the principal.

Single Entry Bond

Importers obtain a single entry bond for a single shipment. It covers only the entry or transaction for which it was written.

What are the bond amounts and how are they set?

Continuous Transaction Bond

All Continuous Transaction Bond are set by the Revenue Division of the National Finance Center in Indianapolis, Indiana. Monetary Guidelines For Setting Bond Amounts are on the CBP website at <http://www.cbp.gov/linkhandler/cgov/toolbox/legal/directives/3510-004.ctt/3510-004.txt>.

The minimum bond amount for continuous bonds is generally \$50,000. For importers, the minimum continuous bond amount is \$50,000 or 10 percent of the total taxes and fees paid in the previous 12-month period whichever is greater. Please note that all bond amounts will be rounded up to the next whole dollar amount in multiples of \$1,000.

Single Entry Bond

Single Entry Bond amounts are set by the port director who accepts the bond. The bond amount for a single entry bond generally is not less than the total entered value plus all duties, taxes, and fees. If merchandise is subject to other federal agency requirements or is restricted merchandise, the bond amount set is not less than three times the total entered value of the merchandise.

What are the obligations of the parties and where are the terms and conditions of a bond found?

CBP bond conditions appear in the CBP Regulations at title 19, Code of Federal Regulations (CFR), Subpart G of Part 113. The CBP Form 301 employs a check-off that incorporates the bond text by reference. Bond conditions impose obligations that are otherwise required by statute or regulation.

CBP are intended to reflect the obligations associated with the types of transactions engaged in by the bond principal. An importer of merchandise has different legal obligations to the Government than does a custodian such as a carrier, a cartage operator, or a warehouse proprietor who does not own the merchandise that it stores or transports. A person who makes a claim for drawback under the exporter's summary procedure or who requests accelerated payment of drawback has a different set of obligations to the Government than does a master of a vessel that arrives in the United States from a foreign country.

For example, an importer's bond obligations require him, among other things, to pay duties and submit entry summary documentation at the times required by law, and to redeliver merchandise to CBP upon a lawful demand. The basic custodial bond requires that the custodian of bonded merchandise (which would include bonded carriers, bonded warehouse proprietors, duty-free store operators, container freight station operators, and other custodians of merchandise) comply with regulations relating to the receipt, carriage, safekeeping and disposition of bonded merchandise, maintain all records required by regulations relating to such merchandise and produce the records upon demand by a CBP officer

What happens if the obligations under the bond are not met?

If a principal fails to perform its obligations under the bond, CBP may assess a claim against the principal and surety under the terms and conditions of that bond. The claim may be for breach of an obligation to pay duties. In that case, CBP may make a claim for unpaid duties under the bond. If the principal breaches a different condition of the bond, CBP may issue as claim for liquidated damages. The amount of liquidated damages is established by the conditions of the bond. In no case can a claim for liquidated damages exceed the amount of the bond that appears on the CBP Form 301.

If the bond principal cannot or will not perform its obligations, CBP can make demand for payment on both the principal and the surety. Both the bond principal and surety are “jointly and severally” liable for any claims made under the bond, including claims for liquidated damages. That means CBP will accept payment from either party in satisfaction of the claim. If the surety pays CBP, it can make a claim for payment against its principal, but CBP is not a party to that transaction.

Where are CBP bonds filed?

Single entry bonds should be filed in the port where the transaction will take place. The Continuous Transaction Bond program is being centralized at the Revenue Division in Indianapolis, Indiana. The bond centralization effort will include the filing, approval and maintenance of all Continuous Transaction Bonds. The major objectives of the program are uniformity, bond sufficiency and fair and consistent application of regulations and policies.

The bond which insures the repayment of an erroneous payment of a drawback claim (section 113.65, CBP Regulations, as amended by T.D. 84-213) is filed with the appropriate drawback office for approval. (A list of drawback unit/offices can be found at the end of this brochure under the section listing the CBP Offices.)

Must surety bonds always be used?

No. Another alternative to employing an authorized corporate surety is for the bond principal to *pledge cash or other United States Government obligations* (Treasury bills, notes, or bonds other than U.S. Savings Bonds). The bond form is modified to reflect the change from a surety to a pledge of assets. If U.S. Treasury bills, notes, or bonds are pledged, the bond principal/pledgor is entitled to the interest or discount. No interest is paid on pledged cash.

A disadvantage of this alternative is that CBP must hold the pledge until the bond is satisfied or canceled. On a bond given to satisfy entry requirements, this pledge period does not end until two years after the entry is last liquidated. In the case of entries of merchandise valued at \$500 or less, the pledge is returned after liquidation, assuming that the bond was not breached. In the case of merchandise that is temporarily imported under Chapter 98, Subchapter XIII, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), the pledge is returned to the bond principal/pledgor upon showing that the merchandise was exported or destroyed properly.

What does "termination" of a bond mean?

Termination of a bond means that the term of the bond has ended. No further liability can be claimed against that bond for new transactions, but termination of the bond would have no effect on any obligation arising under any transaction occurring prior to termination. A bond

may be terminated by the surety or the principal and appropriate notifications must be given to CBP. See the provisions of section 113.27 of the CBP Regulations for more information.

Where are CBP offices located?

(* Denotes a drawback unit/office)

Baltimore, MD 21202 / 103 South Gay Street

Boston, MA 02222-1056 / 10 Causeway Street

Buffalo, NY, 14225 / 4455 Genesee Street

Chicago, IL 60607 / 610 South Canal Street, Room 602 *

College Park, GA 30349 / 1691 Phoenix Blvd.

Detroit, MI 48226 / 613 Abbott Street

El Paso, TX 79925 / 9400 Viscount Blvd.

Houston, TX 77032 / 2350 N. Sam Houston Parkway East, Suite 1000*

Los Angeles/Long Beach, CA 90802/ 301 E Ocean Boulevard *

Laredo, TX 78044 / PO Box 3130, Bldg. #2, Lincoln-Juarez Bridge

New Orleans, LA 70130/ 423 Canal Street *

New York/ Newark, NJ 07102/ 1100 Raymond Boulevard, Room 310 *

Miami, FL 33131 / 909 SE First Avenue

Portland, OR 97209 / 511 NW Broadway

San Diego, CA 92101 / 610 West Ash Street

San Francisco, CA 94126 / 555 Battery Street, Room 107 *

San Juan, PR 00901 / #1 La Puntilla Street

Seattle, WA 98104 / 1000 Second Avenue

Tampa, FL 33605 / 1624 East Seventh Avenue

Tucson, AZ 85705 / 4740 North Oracle Road

CBP Port Offices

The addresses of CBP port offices can be found in the government pages of your local telephone directory. Addresses and telephone numbers can also be found on the CBP Website at www.cbp.gov.

Where can further information be obtained?

Questions on the legal effects of a CBP bond or the scope or meaning of the language in a bond should be sent to:

Chief, Entry Process and Duty Refunds Branch

Office of Regulations and Rulings

U.S. Customs and Border Protection

1300 Pennsylvania Avenue, NW

Mint Annex

Washington, DC 20229

Telephone: 202.572.8770

U.S. Customs and Border Protection

Washington, D.C. 20229

Visit our Website at www.cbp.gov

Report suspicious behavior

1-800 BE-ALERT

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