



San Francisco Bay Ferry

A SERVICE OF WETA



BREAKING BARRIERS IN THE MARINE INDUSTRY

February 15, 2023 | 11:00 a.m., (PST)



OVERVIEW

SF Bay Ferry, Golden Gate Ferry, and numerous other ferry operators across the country have struggled for years to achieve their Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) participation goals. Based on feedback from shipyards and marine construction firms that have experience as primes on marine contracts, there are many barriers that DBE and potential DBE firms have faced when seeking prime and sub-contractor work, as well barriers for prime contractors when attempting to obtain DBE subcontractor participation.

Barriers:

- Specialized certifications and experience in vessel painting, plumbing, welding, interior design, HVAC, electrical installation, and civil engineering
- Insurance (USL&H) and bonding capacity
- Financial resources
- Overall experience in the marine industry

Breaking Barriers in the Marine Industry Workshop will explore:

- How to overcome such challenges
- Steps DBEs and potential DBEs can take to secure work as a prime or subcontractor
- Cost for insurance and bonding
- FTA tips and resources for DBEs
- Buy America Act requirements

INTRODUCTIONS

HOST AGENCIES

Terence Candell, **Government and Regulatory Affairs Specialist**
San Francisco Bay Water Emergency Transportation Authority (WETA)

Lauren Gularte, **Government and Regulatory Affairs Manager**
San Francisco Bay Water Emergency Transportation Authority (WETA)

Artemisé Davenport, **DBE Program Administrator**
Golden Gate Bridge, Highway & Transportation District (GGBHTD)

FEDERAL TRANSIT ADMINISTRATION PANELISTS

Monica McCallum, **Director, Office of Recipient Civil Rights Management**

Scott Pichon, **Equal Opportunity Specialist**

Karin Vosgueritchian, **Regional Civil Rights Officer, Region IX**

SHIPYARD & MARINE CONTRACTOR PANELISTS

David Mik, **President**
Power Engineering Construction Co.

Lacey Greene, **Sales & Marketing Representative**
Nichols Brothers Boat Builders

Gerona Goethe, **General Manager**
Bay Ship & Yacht Co.

Todd Roberts, **President**
Marine Group Boat Works

Chrisdee Meder, **Contract Administrative Assistant**
All American Marine, Inc.

Renee Williams, **West Coast Regional Business Manager**
Manson Construction Co.

Lindsey Williams, **Small Business Liaison Officer**
Manson Construction Co.

Laurie Pinard, **General Counsel**
Manson Construction Co.

Chris Schaeffer, **Estimator**
Manson Construction Co.

INSURANCE PANELISTS

Lorraine Remigio, **Vice President**
Heffernan Insurance Broker

Erica Mosley, **Surety Account Manager**
Heffernan Insurance Brokers

Jeanne Ramos, **Director**
Trident Marine Managers

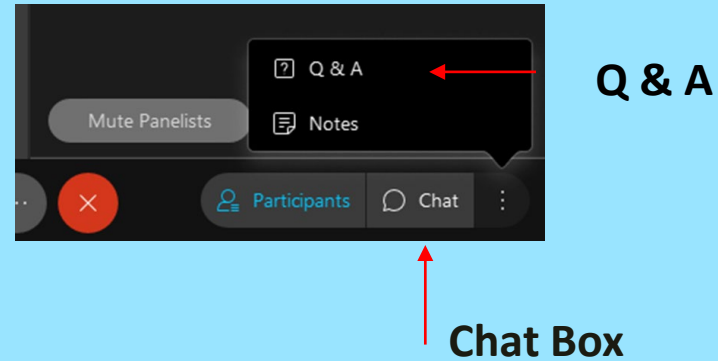
ATTORNEY

Katherine Tsou, **Senior Counsel**
Hanson Bridgett, LLP

HOUSEKEEPING TIPS

PANELS:

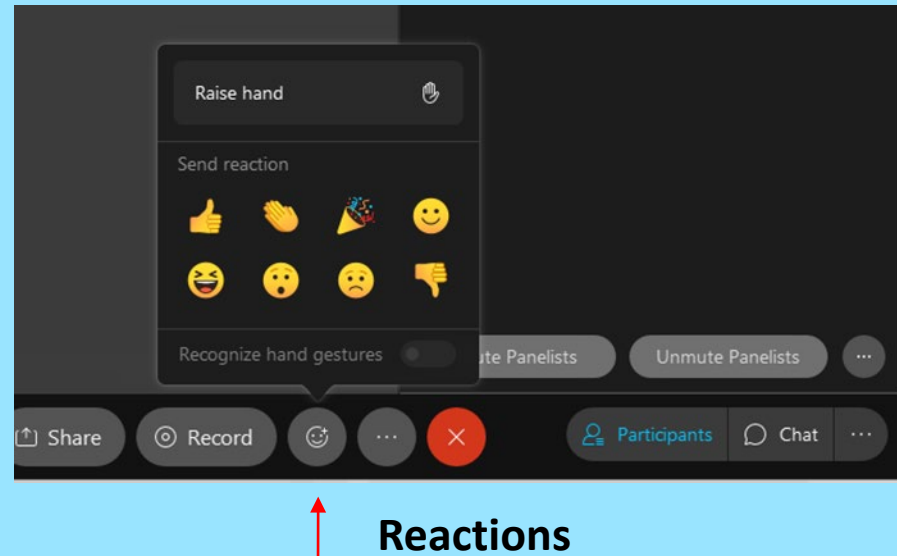
**Q & A: Submit questions in the Chat
Chat Box: Resources**



REACTION FEATURE

**Hand Raise: Request to unmute
For dial-in, *9 to unmute**

This meeting is recorded



AGENDA

Time	Topic	Panelists
11:00a	Welcome/Overview	Terence Candell, WETA
11:05a	Introductions	All Panelists
11:10a	FTA-DBE Requirements, Tips & Resources	Monica McCallum, FTA Scott Pichon, FTA Karin Vosgueritchian, FTA
11:30a	Marine Experience & Certifications	Shipyard & Marine Contractor Panelists
11:55a	BREAK	
12:05p	Insurance & Bonding Requirements	Lorraine Remigio, Heffernan Insurance Brokers Erica Mosley, Heffernan Insurance Brokers Jeana Ramos, Trident Marine Managers
12:35p	Buy America Requirements	Katherine Tsou, Hanson Bridgett
12:55p	Final Questions/Closing	Terence Candell, WETA

Breaking Barriers in the Marine Industry

February 15, 2023



Monica McCallum

Scott Pichon

Karin Vosgueritchian

FTA Office of Civil Rights



U.S. Department of Transportation
Federal Transit Administration

This Presentation

- USDOT's DBE Program
- Recipient DBE Programs & Goals
- Transit Vehicle Procurements: Eligible TVMs & Project Goals
- Certification and Participation Considerations
- Resources
- Marine Industry Qs & As

USDOT's DBE Program - Overview

- The DBE program is USDOT's contracting equity tool
- DBE applies to capital, operating, and planning funds, including ferry work
- USDOT program carried out by DOT-funded recipients
- Prohibits discrimination in DOT-assisted contracting
- Encourages Use of DBEs and Other Small Businesses
- Protects DBEs and Small Businesses

A DBE is a small business owned and controlled by historically socially and economically disadvantaged individuals



Recipient DBE Programs & Goals

- Each recipient must establish its own DBE Program, and update it as needed
- Recipient DBE Goals are due every three years on August 1st
- Consider the following:
 - The goal setting process is different for each recipient
 - Use the most refined data available
 - Know your local market area
 - Understand your previous DBE Goal
- Technical assistance for setting DBE Goals are available:
 - [Tips for Goal-Setting in the Disadvantaged Business Enterprise \(DBE\) Program | US Department of Transportation](#)



Transit Vehicle Procurements: Eligible TVMs & Project Goals

- Transit vehicle procurements are unlike all other FTA-assisted contracts because TVMs have their own DBE programs and goals
- Generally, FTA recipients may only award FTA-assisted contracts to eligible TVMs
 - All eligible TVMs are listed on FTA's website
 - Currently, there are no eligible TVMs that manufacture ferries
- FTA recipients *may* procure transit vehicles from other entities by establishing project goals
 - Project goals are completely separate from overall goals
 - Transit vehicle procurement project goals need FTA approval
 - Ferry procurements are often a good fit for project goals

Certification & Participation Considerations

- Do the minority and women-owned small businesses that perform the work you need know about the DBE program?
- Do they know certification is fee-free, permanent, and statewide?
- Do they know about the DBE program's protections?
- Do certifiers know the type of work needed?
- How are your contracts structured?
- Are there mentoring opportunities in your area?
- Are recipients falling short of their goals?
- Outreach is Key!

Resources

- **49 CFR Part 26** (TVM at § 26.49):
 - <https://www.ecfr.gov/current/title-49/subtitle-A/part-26>
- **USDOT/DOCR DBE main page:**
 - <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise>
- **FTA DBE main page:**
 - <https://www.transit.dot.gov/dbe>
- **USDOT Office of Small and Disadvantaged Business Utilization (OSDBU)**
 - Small Business Transportation Resource Centers (SBTRCs)
 - www.Transportation.gov/osdbu
- **Small Business Administration (SBA) Small Business Development Centers (SBDCs)**
 - <https://www.sba.gov/local-assistance/resource-partners/small-business-development-centers-sbdc>



Open Discussion



FTA Mission, Vision, Values

MISSION

Improve America's Communities through Public Transportation



VISION

A Better Quality of Life for All Built on Public Transportation Excellence



VALUES



SERVICE	Provide reliable, transparent, responsive, and anticipatory services to meet stakeholder needs
INTEGRITY	Commitment to the highest professional and ethical standards
INNOVATION	Foster new ideas, concepts, and solutions for improved outcomes
SUSTAINABILITY	Optimize decisions, resources, and systems to make long-term positive impacts on the environment, infrastructure, and safety
EQUITY	Remove barriers for systemically underserved communities to access all aspects of economic, social, and civic life

Shipyard Panelist Q&A

- Lind Marine
- Manson Construction
- Power Engineering
- Nichols Brother's Boat Builders
- Bay Ship & Yacht
- All American Marine
- Marine Boat Works

Breaking Barriers In The Marine Industry – Insurance

Jeana Ramos | Director of Underwriting, Trident Marine Managers | 209-787-9730

Jeana.Ramos@Tridentmm.com

License # 0C59355

Lorraine Remigio | Vice President, Heffernan Insurance Brokers | 925-942-4665

LorraineR@heffins.com

License #0564249

Erica Mosley | Surety Account Manager, Heffernan Insurance Brokers | 925-488-2695

LorraineR@heffins.com

License #0564249



Because You're Different



Types of Marine Insurance

Commercial
Marine Liability

Hull and
Machinery and
Protection &
Indemnity

Bumbershoot
Liability

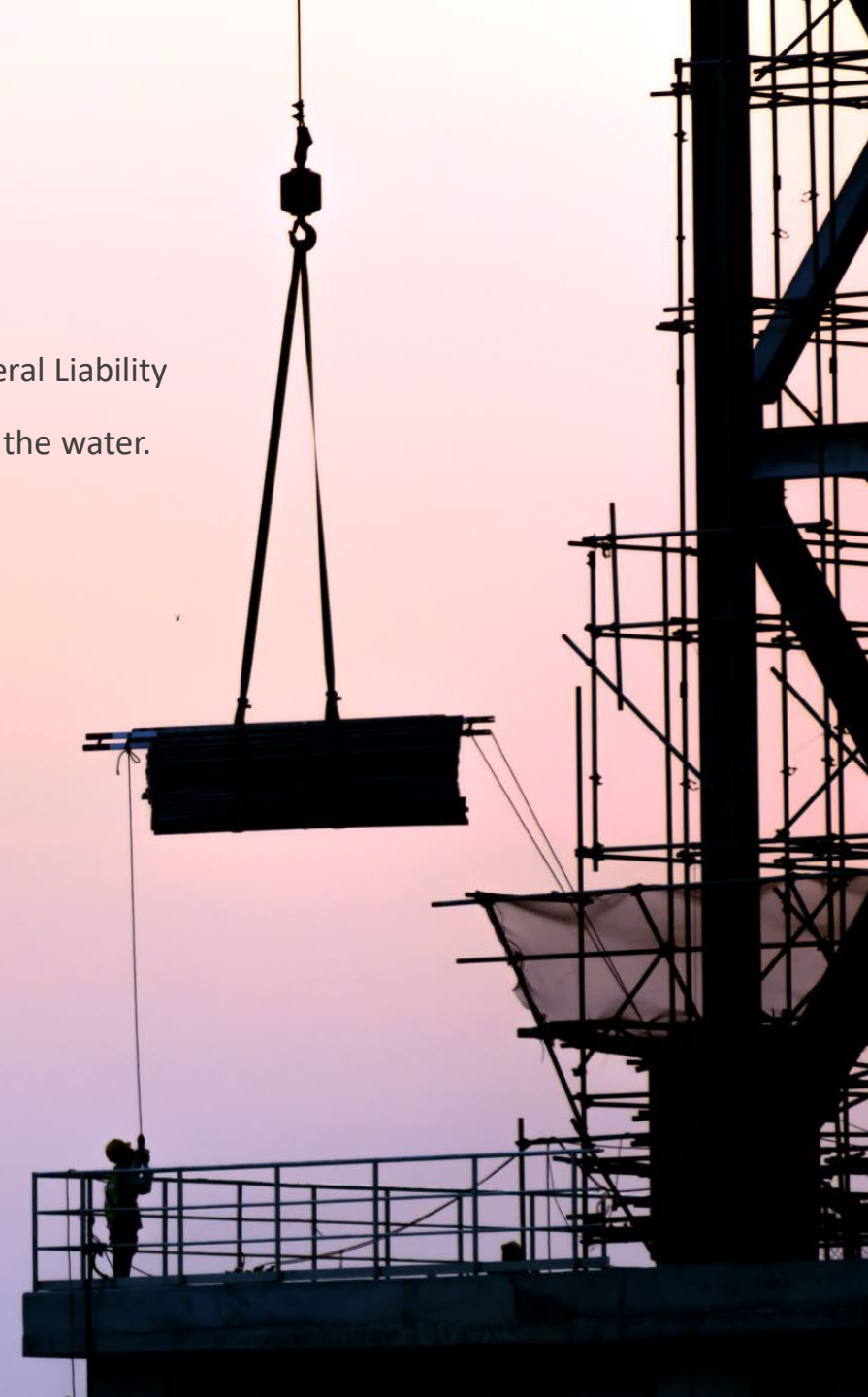
Jones Act

Maritime
Employers Liability

United States
Longshore &
Harbor Workers;
Compensation Act

Types of Marine Insurance

- **Commercial Marine Liability** – Marine General Liability policies are designed specifically for those who work on vessels, docks and ports. Most businesses are more familiar with General Liability policies, however these policies apply to land-based projects and generally have exclusions for work over the water.
- **Hull and Machinery & Protection & Indemnity** – covers loss or damaged caused by the physical contact between the hull of the insured vessel, or equipment permanently affixed to the vessel and third party property such as a pier or buoy as well as collision liability with 3rd party vessel.
- **Bumbershoot Liability:** an excess liability coverage for insureds with marine exposures. The policy covers both nonmarine and maritime liability exposures—that is, protection and indemnity, general average, collision, sue and labor, and general liability hazards.



A silhouette of a worker on a ship's deck operating a crane to lift a large rectangular object. The background is a soft, colorful gradient of a sunset or sunrise sky.

Types of Marine Insurance

► **Jones Act** (Merchant Marine Act of 1920) – provides seamen and their families the right to civil action against the employers.

To be qualified as a Jones Act seamen:

- Must be assigned to one vessel or fleet of vessels under the same ownership
- Vessel must be considered in Navigation
- Must prove significant connection with the vessel, 30% aboard the vessel or an identifiable fleet of vessels

Types of Marine Insurance

Examples of Vessels Under the Jones Act:

- Cargo ships
- Passenger ferries
- Cruise ships
- Barges
- Tugboats
- Commercial fishing vessels
- Semi-submersible drilling rigs
- Mobile offshore drilling platforms
- Floating structures like dredges and pontoon rafts
- Oil platform supply and service ships
- Special purpose ships
- Docked boats
- Anchored vessels



Types of Marine Insurance

▶ **Maritime Employers Liability** — covers insured's employees while working on non-owned or operated vessels.

▶ **USL&H (The Longshore and Harbor Workers Compensation Act)** provides coverage for employees whose injuries occur on navigable waters or adjoining areas customarily used in the loading, unloading, repairing, or building of a vessel.

Also, any Harbor Worker including but not limited to ship repairers, shipbuilders, ship-breakers, pile drivers, and workers constructing piers, sewer outfalls, or any facility used as an aid to navigation or maritime commerce. (Status and Situs Test)



Jones Act vs MEL vs USL&H

Jones Act

Federal Coverage for Seaman in service of a vessel

Captain & Crew of an owned vessel

Benefits usually 3x as under state workers compensation

Premium based on number of crew

MEL

Federal Coverage for Seaman in service of a vessel

Covers your employees when serving on a vessel owned and operated by another party.

Benefits usually 3x as under state workers compensation

Premium payroll associated with the exposure

USL&H

Federal Coverage

Employees working on or along navigable waters in support of maritime commerce

Benefits usually 2x as under state workers compensation. Rates typically 2x State Workers Comp Rates

Premium based on payroll

May add to existing WC policy if available

How to Obtain Marine Insurance Coverage

Reach out to an insurance broker who understands Marine exposures

Discuss the following with your broker:

- Overall project scope
- What type of work will you be performing?
- Where will the work take place?
- What equipment & vessels will be utilized on the project
- Be prepared to discuss your experience with the nature of the project
- Loss history if you've had prior coverage

The Underwriting Process

- In a hard market, underwriters are inundated with submissions, to get your application to the top of stack, we recommend:
 - Start early. Give the underwriters at least 30 days to review and market your account. Don't wait until the last minute to obtain quotes to satisfy the project insurance requirements.
 - Share the contracts or bid documents with your broker.
 - Work with your broker to write a narrative which describes your operations and experience in your field of work and/or experience with jobs similar to what you are bidding, experience of crew and involved in the project.
 - Review your website to ensure it correctly reflects the type of work you actively perform.

Sample Marine Liability Questions

MARINE LIABILITY INFORMATION:			
MARINE WORK PERFORMED:	<input type="checkbox"/> Vessel Chartering: _____ %	<input type="checkbox"/> Marine Salvage _____ %	<input type="checkbox"/> Marine Stevedore / Terminal Operations _____ %
	<input type="checkbox"/> Vessel Carpentry _____ %	<input type="checkbox"/> Vessel Electronics _____ %	<input type="checkbox"/> Vessel Engine Repair/Maintenance _____ %
	<input type="checkbox"/> Vessel Canvas/Sail Rigging Work _____ %	<input type="checkbox"/> Hull Cleaning Services _____ %	<input type="checkbox"/> Vessel/Hull Repair _____ %
	<input type="checkbox"/> Vessel Winterizing _____ %	<input type="checkbox"/> Welding / Hot Work _____ %	<input type="checkbox"/> Vessel Conversion _____ %
	<input type="checkbox"/> Commercial Diving _____ %	<input type="checkbox"/> Marine Construction _____ %	<input type="checkbox"/> Marine Dredging _____ %
	<input type="checkbox"/> Marine Surveying _____ %	<input type="checkbox"/> Marine Scaffolding _____ %	<input type="checkbox"/> Vessel Sea Trials _____ %
NON MARINE WORK PERFORMED:	<input type="checkbox"/> Pollution containment _____ %	<input type="checkbox"/> Shore-side utility work _____ %	<input type="checkbox"/> Sales/Purchase of Autos _____ %
	<input type="checkbox"/> Auto repair _____ %	<input type="checkbox"/> Product Manufacturing _____ %	<input type="checkbox"/> Non-marine construction _____ %
	<input type="checkbox"/> Welding / Hot Work _____ %	<input type="checkbox"/> Scaffolding _____ %	<input type="checkbox"/> Other _____ _____ %
DESCRIPTION OF WORK:	Please provide description and revenue of your last five largest jobs completed or currently in progress:		
	1.		
	2.		
	3.		
	4.		
	5.		

Sample Hull & Machinery / Protection & Indemnity Questions

NAME OF APPLICANT:							
APPLICANT ADDRESS: <i>(mailing address)</i>							
APPLICANT WEBSITE:							
YEARS IN BUSINESS:							
PROPOSED EFFECTIVE DATE: _____ 12.01 am Standard Time at Assureds Address							
APPLICANT INFORMATION SECTION							
PLEASE INDICATE YOUR BUSINESS TYPE:		<input type="checkbox"/> Individual /Owner Operator		<input type="checkbox"/> Partnership		<input type="checkbox"/> Joint Venture	
		<input type="checkbox"/> Limited Liability Corp.		<input type="checkbox"/> Corporation		<input type="checkbox"/> Other _____	
BUSINESS DESCRIPTION: <i>(Please include description any shore side operations):</i>							
COVERAGE REQUEST:			<i>Please confirm coverage you are requesting:</i>				
			<input type="checkbox"/> Hull				
			<input type="checkbox"/> Protection & Indemnity				
			<input type="checkbox"/> Marine Commercial General Liability				
ANNUAL GROSS RECEIPTS: <i>(three years)</i>		\$ _____	2023	\$ _____	2022	\$ _____	2021
SHORESIDE OPERATION INFORMATION:		Do you have any shore side operations that are separate from your vessel operations? <i>(If yes, please provide in business description above)</i>		<input type="checkbox"/> Yes		<input type="checkbox"/> No	
		Do you own or lease a commercial building or location? <i>(if yes please complete additional fields for owned/rented premise)</i>		<input type="checkbox"/> Yes		<input type="checkbox"/> No	
		Location Address: _____					
		Description of locations operations: _____					
		Is the yard fenced <input type="checkbox"/> Yes <input type="checkbox"/> No					
		Is the yard locked afterhours <input type="checkbox"/> Yes <input type="checkbox"/> No					
		Description of fire protection: _____					
		For multiple locations please attach schedule					
VESSEL INFORMATION:		<i>Please attach most recent vessel survey and confirm compliance with any recommendations:</i>					
		Hull values exceed purchase price <input type="checkbox"/> Yes <input type="checkbox"/> No – if yes please explain cost of improvements made					
		Loss Payee Required <input type="checkbox"/> Yes <input type="checkbox"/> No – if yes please provide additional information					
		Summer Docking Location: _____					
		Winter Docking Location: _____					
		Current Operational Period:		From: _____		To: _____	
		Current Navigational Area: _____ <i>(Within and between)</i>					
		Description of Hurricane Plan: _____ <i>(U.S. Southern & Eastern Coastline)</i>					
PROTECTION & INDEMNITY INFORMATION:		Requested Limit:		<input type="checkbox"/> \$500,000			
				<input type="checkbox"/> \$1,000,000			
				<input type="checkbox"/> Other: _____			
		Current deductible(s):		\$ _____			
		Number of employees:		_____			
		Total Crew Count:		_____			
		Number of crew: <i>(max any one vessel)</i>		_____			
		Average employment length of crew:		_____			
		Annual Payroll:		_____			
		Number of passengers:		_____			
VESSEL SCHEDULE:							
Vessel Name:	Year:	Make:	Construction:	Description:	Hull Value:	Deductible:	
			Select Type	Select Type	\$ _____	\$ _____	
			Select Type	Select Type	\$ _____	\$ _____	
			Select Type	Select Type	\$ _____	\$ _____	
			Select Type	Select Type	\$ _____	\$ _____	
			Select Type	Select Type	\$ _____	\$ _____	
			Select Type	Select Type	\$ _____	\$ _____	
			Select Type	Select Type	\$ _____	\$ _____	

Sample USL&H / Maritime Employers Liability & Jones Act Questions

APPLICANT MARITIME EXPOSURES

Will the Applicant Own, Lease, Charter or Borrow Any Watercraft on a Navigable Waterway? Yes No

Does the Insured Have a P&I Policy With Crew Endorsement? Yes No

Will Applicant Have Any Employees Spending More Than 25% of Their Time Assigned to Any Watercraft Operating on a Navigable Waterway? Yes No

Will Applicant Perform Any Work From a Work Platform in a Navigable Waterway? Yes No

Will Applicant Employ Anyone as a Master or Member of the Crew of Any Watercraft on a Navigable Waterway? Yes No

Will the Applicant Employ Anyone to Perform Any Work on or From a Watercraft Under Investigation? Yes No

Will the Applicant Contract Any Work to be Performed on or From a Watercraft Under Investigation Without Reviewing Proof of Maritime Coverages for the Subcontractor's Workers? Yes No

Types of Surety

Commercial Surety

- ❖ There are roughly over one million types of bonds within this category. Commercial bonds are typically required because of a legal statute.
- ❖ The most common example of Commercial Surety bonds applicable to your business is: License and Permit Bonds (*i.e. California Contractors License Bond*)
- ❖ Most Commercial Bond underwriting requirements include a signed application where premium is determined by the Surety performing a soft credit check.

Contract Surety

- ❖ The four most common types of Contract Bonds are Bid, Performance, Payment, and Maintenance (warranty) bonds. A Contract Bond is executed by the existence of a formal construction contract and ensures the obligations of such contract will be met.
- ❖ If you are a subcontractor, you may be (but not always) required to post all four types of common Contract bonds.
- ❖ A Contract Bonding Program is required to obtain these types of bonds. Each Surety Company will have a variety of programs to offer and your brokers accessibility (appointment) & relationship with the underwriter may determine which Surety Companies, programs, rates, and required underwriting information are available to you.

Surety Fun Fact: Surety acts like a financial guarantee - If a claim is put on a bond and the Surety Company pays it, the principal (business name listed on the bond form) is required to pay the full amount back to the Surety Company.

Common information you can expect to discuss/provide on Applications while setting up a Contract Bonding Program:

Reach out to your Insurance Broker's Surety team. Discuss the following with a Surety specialist:

- ❖ Be prepared to provide extensive financial documentation and personal information required by the Surety Company to qualify you for a bonding program.
- ❖ Be prepared to discuss your experience with the nature of the project and provide extensive work history.
- ❖ Overview of the size of jobs (in dollars) you want to start bidding on. The size of job's you're looking to bid will determine the following:
 - ❖ Size of Surety program you'll need
 - ❖ The amount of documentation required to provide to obtain a program
 - ❖ The total amount of job's you'll be qualified to manage at any one time.

Contract Bonding Program types with standard underwriting requirements:

Credit Based Program:

(limits Ex: \$750M single, \$1MM Aggregate)

- Based on the business entities owners personal credit report and Surety specific point system.
 - A majority Owner is someone who owns more than 10% of the business.
 - ALL majority owners and spouses should be prepared to provide their personal financial information.
- Completed Application
- Completed General Indemnity Agreement
- These programs most commonly provide a business with flat rates between 2%-3% depending on qualification.

Financial Based Program:

(limits Ex: \$1.2MM Single, \$5MM Aggregate)

- Based on a multitude of Factors including:
 - Majority Owners credit Report
 - Business Credit Report (FEIN#)
 - Personal Financial Statements for all owners
 - Proof of Funds - may be requested on behalf of the business and personally (i.e. copies of recent bank statements)
 - 2-years of Business Financial Statements in accrual format.
 - CPA Reviewed/Audited Statements will be a requirement once you reach certain limits for a program
 - Current Work-in-Progress (WIP)
 - Current Aging A/R Statement
- Completed Application
- Completed General Indemnity Agreement
- These programs most commonly provide a business sliding rates depending on qualification and licensure classification.

Surety/Financial Language Fun Fact: m/M = thousand, MM = million

Double Tap Fun Fact: Traditionally, there is no charge for Bid Bonds (double check with your Broker to make sure they offer them at no charge)



You got this!

► I know it may seem like an enormous amount of information to get set up with a Contract Bonding Program, but your Surety partners and Brokers are here to help you through it. No question is a bad question in Surety. Pick up the phone and ask for clarification if something is confusing because sometimes Surety seems like a completely different language.

Thank you!



Because You're Different





Breaking Barriers in the Marine Industry

Buy America Overview

February 15, 2023



Katherine M. Tsou
Phone: 415-995-5120
KTsou@hansonbridgett.com





Brief Overview of FTA Buy America Requirements

- Federal Transit Administration (FTA) may obligate funds for a project only if the **steel**, **iron**, and **manufactured products** used in the project are produced in the United States
- FTA statutory **waiver for rolling stock procurements**
- Build America, Buy America Act (BABA) added a new requirement: for all awards of federal assistance for infrastructure projects, all **construction materials** must be manufactured in the United States





FTA's "Non-Shifting" Approach to Manufactured Products and Rolling Stock

- Procurements for replacement parts, regardless of whether the parts were components or subcomponents of the original end product, retain their characterization and the requirements applicable to manufactured products apply
- Applies to procurements of replacement parts for rolling stock as well as to manufactured products
- Example: Vessel seating





FTA Buy America Requirements - Rolling Stock

- Procurement of rolling stock:
 - Purchasing a vessel that is already built
 - Contracting for the building of a new vessel
 - Rebuilding a vessel
- Rebuilds vs. Overhauls/refurbishments:
 - Rebuild: reconditioning at the end of the vessel's useful life that results in a new useful life of the vessel
 - Overhaul/refurbishment: activities that do not result in a new useful life of the vessel





Buy America Requirements Differ Depending on Project

- New build vessel project
- Vessel refurbish/repair/maintenance projects
- Marine construction projects (e.g. float and terminal projects)





How do agencies ensure Buy America compliance?

- Shipyard submits a certification with its bid/proposal
- Shipyard must ensure that lower tier contractors and subcontractors are in compliance with the applicable Buy America requirements
- Shipyard must comply with FTA pre-award and post-delivery audit requirements for rolling stock




FTA Pre-Award and Post-Delivery Audit Requirements for Rolling Stock

- Applies to **revenue service rolling stock purchases** (includes rebuilds)
- Complete Pre-Award Audit Report before a contract is awarded by the Board
- Complete Post-Delivery Audit Report before the title to the rolling stock is transferred to Owner or before the rolling stock is placed in revenue service, whichever comes first
- Both reports must include three specific certifications
- Consult FTA Handbook





Possible Consequences of Noncompliance with Buy America Requirements

- If contractor fails to demonstrate that it is in compliance with its Buy America certification, it will be required to take the necessary steps in order to achieve compliance at the contractor's expense
 - Lose contract (if not awarded yet)
 - Breach of contract
 - Expose agency to risk of audit finding in triennial or project specific review, which could lead to immediate suspension, withholding, or repayment of federal financial assistance, or other enforcement actions
 - Additional consequences for intentional violations
- 



Questions

