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# U.S. Customs and Border Protection: Bond Sufficiency Study

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## **2. Executive Summary**

U.S. Customs and Border Protection (CBP) engaged Crowe Chizek and Company LLC (Crowe) to undertake a study of key elements of its continuous transaction entry bond program.

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### **2.1. Project Objectives**

By agreement between CBP and Crowe, the objectives of this study were to:

1. Consider the continuous transaction bond formulas with respect to importers who participate in certain of the CBP-Industry partnership programs (Importer Self-Assessment, Customs Trade Partnership Against Terrorism, Carrier Initiative Program, Business Anti-Smuggling Coalition, and the Americas Counter Smuggling Initiative).
2. Review and evaluate credit analysis or financial underwriting tools that might be useful to CBP from the private sector, as complements to the bonding requirement and the goal of optimizing collection results for duties, taxes and fees.
3. Assess the percentages used in the current bond requirement formulas against other industries' requirements for bonding and against the environment in which duties, taxes and fees are imposed and collected by CBP.

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### **2.2. Key Findings**

Our findings for each of the three project objectives above are summarized in sections 2.2.1, 2.2.2 and 2.2.3, respectively.

#### **2.2.1. Bond Formulas and Partnership Program Participation**

Our intent (and that of CBP's Statement of Work) was to use data on bonds, accounts receivable, supplemental and anti-dumping/countervailing duties, write-offs and more to perform statistical comparisons of such information among importers in the partnership programs and those not in the programs. Although past performance is not certain to indicate future behavior, careful analysis of this data can permit statistically valid conclusions about any relationship between an importer's participation in a partnership program and its payment performance for duties, taxes and fees. However, we could not obtain access to data on importers who participate in any of the subject partnership programs due to security restrictions. In lieu of relying on this data, we reviewed the program parameters, including their purposes, requirements and benefits to participants and to CBP, to seek and evaluate any relationships between the programs and the bond requirement formulas.

The partnership programs address the cooperation of importers in the prevention of illegal drugs or contraband from being smuggled into the United States. The

purpose of the bond requirement is to ensure that all duties, taxes and fees are paid by an importer and that the importer complies with specific importation requirements and regulations. While these may be complementary purposes, program participation and the bond requirement are not different approaches to a common goal. **Our research into each of the partnership programs and into the bond requirement found no clear commonality where one enhances the other or vice versa.**

Had the data been available to us, it is possible that it would show that during the period studied program participants had a better payment record on duties, taxes and fees, that their bills were paid more promptly and that they resulted in fewer write-offs than importers not participating in the programs. However, it might also be possible that program participation and better payment records are simply similar measures of some other characteristic of program participants, a circumstance that statisticians call “multicollinearity.” For example, program participation represents a financial cost to each importer. Those who participate must be financially able to bear that cost and that financial strength may also be the reason behind a good payment record. It might be that financial strength is the true determinant of a good payment record, not program participation. However, in the absence of access to the data, we are not able to draw any such conclusions, but we point out the possibility as one for deeper study by those with access to the necessary data.

### **2.2.2. Credit Analysis and Other Tools for CBP’s Benefit**

A consideration of alternative or complementary resources that CBP could consider applying in the bonding function must reflect the unique needs of CBP. The dollar amount of exposure that CBP wishes to secure is largely indeterminate, and currently is estimated by proxy—primarily, the past twelve months’ duties, taxes and fees owed by the importer. The length of time over which each entry represents the potential for an importer to be found liable for payment to CBP is often up to four years and sometimes greater. The amounts assessed are sometimes challenged by the importer, a process or series of processes that brings further uncertainty into the environment. These are some of the conditions that credit analysis and other tools described below must help address if they are to be productive additions to CBP’s approach. Overall, however, **we have concluded that it is data mining and the corresponding use of predictive modeling systems based on CBP’s own data that offer genuine and significant potential benefits in collecting revenue and controlling uncollectible receivables.**

#### 2.2.2.1. Bank Letters of Credit

We examined the relevance of letters of credit as an alternative to surety bonds. However, they provide only a finite term of coverage (once an L/C expires, further claims are barred) whereas bonds have a continuing period during which claims related to entries made during the bond term may be made after the conclusion of that term. Sureties, under very different regulatory oversight from that of banks, have more flexibility in the types of risks they can underwrite, as they do not have

depositors' accounts to protect in the manner that banks do. Accordingly, **we did not find reason to suggest that letters of credit be adopted as complements to, or replacements for, surety bonds.**

#### 2.2.2.2. Financial Analysis of Importers by CBP

While it would not detract from the CBP mission, internal financial analysis or underwriting by CBP also is problematic. First, the obligation to remain abreast of each importer's changing financial condition throughout the period from date of entry until final liquidation of entry, often up to four years later, makes financial analysis of each importer a *continuous* obligation, not a one-time or even periodic responsibility. Second CBP is not in possession of the technical resources or the trained personnel necessary to undertake such analysis.

But more important to our conclusion that CBP should not attempt its own financial analysis is the fact that it would be largely redundant to the value provided by the surety bonds. Part of the guarantee afforded to CBP as obligee on each bond is that payment will be made to CBP of all duties, taxes and fees owed by the importer. Financial analysis by CBP to assess an importer's risk of payment default is unnecessary when the bonds insure against loss due to payment default. (A further redundancy that would be present is the fact that for all but their smallest bonds, the sureties perform their own financial due diligence on each principal/-importer, including the requirement of the importer's financial statements for larger bonds.)

The same arguments apply also to the use of commercially available credit reports, credit reference checks and other tools CBP might employ to assess an importer's financial condition when it is also secured by a surety bond.

For these reasons, **where a sufficient bond is in force, we cannot endorse financial analysis of importers by CBP or other means of assessing importers' ability and likelihood to make timely payment to CBP as productive measures.**

#### 2.2.2.3. Data Mining and Predictive Modeling

The Automated Commercial System (CBP's import activity database) provides a wealth of information that appears to be largely untapped for its value in understanding risks. Many of the present reports produced from ACS are transaction-level in nature; better risk management practices related to collection of duties, taxes and fees would benefit from reports that instead describe what is occurring in the field in broad terms, depicting "more forest and fewer trees."

Data mining could be applied to drill down into entry activity to understand the relationship between partnership program participation and those importers' payment records, as discussed above. It also could be used to compare accounts receivable agings or write-off activity between types of charges (say, supplemental duties, anti-dumping/countervailing duties and interest) to learn where additional effort could be applied to improve collection rates. It could also be used to identify importers whose bond amounts are being consumed at rates that will result in the

bond being exhausted prior to its next anniversary date—and allow CBP to provide advance warning to the pertinent importers/sureties for pre-emptive correction.

Data on write-offs currently is not collected in adequate detail to permit analysis of trends in or possible causes of write-offs. CBP staff offered to perform a manual review of individual files in a sample of write-offs to provide us with more data on their circumstances. However, we chose not to pursue this option due to the burden it would have placed on CBP and the uncertainty that sufficient information could be obtained from within each file. Our study of write-offs at the individual importer level would have required records for the type of goods entered, importer's industry, country of origin, port of entry, types of charges written off and other information. Later in this report, we recommend compiling and analyzing such write-off details on a consistent basis to permit continual analysis by CBP that might indicate areas of concern where CBP could adopt new procedures addressing the specific reasons behind certain classes or types of write-offs.<sup>1</sup> For example, an examination of write-offs based on the age of the receivable might help CBP identify points in time where revenue collectibility shows significant decreases. These time-points then could be incorporated into CBP's collection procedures so that the initiation of relevant collection activities (e.g., dunning notice, demand on surety, legal pursuit, etc.) is coordinated to take place prior to the points where the data show that the drop-offs occur.

**We view the methodical collection and analysis by CBP of appropriate data on importer activity as a highly efficient, sophisticated and fair way to enhance revenue collection and better understanding its importer revenue activities.**

### **2.2.3. Comparison of Customs Bond Use to Other Environments**

Activity Code 1 Entry Bonds secure not only the payment performance of an importer, but also ten other types of specific procedural compliance. This gives them a dual purpose that makes comparison to other industries' bonding programs difficult. Our research found that bonding requirements are very commonly established by one authority, while the amount of such bonds is most often left to the discretion of agencies or officials who have more direct involvement in the underlying activity to which the bonds relate. For example, one state legislature authorized a land reclamation bond requirement for mining activity in the state, while delegating authority over the amount of the bonds to officials in the state's natural resources department. This is consistent with CBP's Activity 1 bonds, where the Tariff Act of 1930 created the bond requirement (19 USC §1623), but also authorized the Treasury Department to set the bond amount (a responsibility subsequently transferred to the Department of Homeland Security and CBP<sup>2</sup>).

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<sup>1</sup> For more information, see Recommendation #8 (in Section 2.3 of this Executive Summary) and Section 7.2.2.2 of our report.

<sup>2</sup> Department of Homeland Security Reorganization Plan, November 25, 2002.

Performance bonds are most commonly set in an amount based either on the amount of a contract whose performance they guarantee, or on some other basis established by industry regulators to serve as a deterrent to non-compliance or non-performance. Contractor performance bonds are most often established at an amount equal to 100% (or more, where cost overruns are the norm) of the contract amount. By comparison, the entry bond program of CBP seeks a payment guarantee of all duties, taxes and fees owed and a performance guarantee that the importer will comply with appropriate procedural requirements on importation.

The dollar amount required for a bond may vary among circumstances or principals, as the underlying activity varies. For example, a developer of a 30-lot residential subdivision with city water/sewer service may have a bond requirement that differs from one placed on the developer of a 30-lot subdivision using only well water and septic systems. However, so long as the *standards* used in setting the bond requirements are applied consistently to all developers such that two developers planning two identical projects required to post the same bond, such variations are not discriminatory or arbitrary. For CBP, the same is true. Its various bond formulas based on historical anti-dumping duties and other charges are applied to all importers equally and uniformly. Where differences arise in the amount of bond required, they are due to unique amounts of previous duties assessed, which amounts are defined by the Department of Commerce. **For CBP, the bond formulas' basis of 10% of the prior year's duties, taxes and fees, or 100% of the anti-dumping duty applies to all importers. As long as they are applied consistently and on an equal basis, the bond formulas are fair and non-discriminatory, even though the resulting bond amounts may vary.**

For the payment guarantee, CBP has a unique challenge in that the amount to be guaranteed is difficult to determine because the prospective entry activity of the importer is not firmly established in advance. Also, CBP can impose charges on an importer often as much as four years after the date of entry, making a lengthy period during which a liability to be insured can be created by CBP. Another factor that makes the proper bond amount imprecise is the fact that bond testing currently is done days or weeks after entry activity occurs, not in real-time on an automated basis. (As new technology in the Automated Commercial Environment application permits, automated, instantaneous monitoring of bond adequacy should be pursued.)

These circumstances surrounding the CBP entry bond program can all be argued as reasons for setting a conservative bonding level, relative to the role of bonds in other industries where the needs are more straightforward or established more concretely by law.

(We did not perform a quantitative assessment of whether bonds established at the currently required levels are adequate for CBP's needs. This evaluation was previously done by Grant Thornton in 2002, with the conclusion that, "The current

formula appears to be more than adequate to provide the coverage [CBP] needs to protect its revenue.”<sup>3</sup>)

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### **2.3. Summary of Recommendations**

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In the process of conducting this review and working with CBP personnel to reach the findings described above, we also identified various opportunities for new approaches, changes in procedures and other revisions that offer potential for improvement in how CBP administers and manages the bond program. These recommendations are briefly listed below and described fully in Section 7 of our report.

1. Draft and issue a CBP Directive formally implementing the bond formula/requirement and fully describing all details of its calculation and application by CBP to remove ambiguity and confusion that may currently exist in the importer and surety communities. (See Section 7.1.1)
2. Evaluate the addition of a “collar” to the bond formula that makes insufficiencies greater than either a specified dollar and/or percentage level subject to specific additional action (or sanction) by CBP. (See Section 7.1.2)
3. Correct the reports used for bond sufficiency testing to make their data consistent with the bond formulas. Expand the reports to provide all the elements of the formulas in a single report to make the review process more efficient. This issue is significant and warrants acting sooner than is possible by waiting for them in the new Automated Commercial Environment: an interim solution should be pursued. (See Section 7.1.3.1)
4. Use appropriate data mining techniques to apply a risk-based approach to prioritizing the bond evaluations. (See Section 7.1.3.2)
5. Foster greater shared responsibility for bond sufficiency by providing useful data reports or other information to stakeholders, such as a report identifying bonds whose usage is on pace to exhaust the bond capacity earlier than their next anniversary dates. (See Section 7.1.4)
6. Maintain the bond program, as a superior alternative to the use of letters of credit. (See Section 7.2.1)
7. Forgo pursuit of internal financial analysis or other underwriting of importers due to their lack of incremental benefit to CBP beyond the security already provided by the bond requirement. (See Section 7.2.2.1)
8. Seek new software and techniques to mine the CBP entry database and to employ quantitative analysis and predictive models in managing revenue collection. (See Section 7.2.2.2)

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<sup>3</sup> Review of Customs Continuous Transaction (Entry) Bonds. April 3, 2002. Grant Thornton LLP.



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## **3. Situation Summary**

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### **3.1. Project Objectives and Methodology**

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#### **3.1.1. Original Objectives**

U.S. Customs and Border Protection (CBP), in its “Determining Bond Sufficiency Statement of Work”, asked Crowe Chizek and Company LLC (Crowe) to assist it in two ways.

The first of these is to use financial data obtained from CBP to assess the continuous transaction bond amount formulas with respect to importers who participate in any of six specified CBP-Industry partnerships: 1) Importer Self-Assessment, 2) Customs Trade Partnership Against Terrorism, 3) Carrier Initiative Program, 4) Business Anti-Smuggling Coalition,<sup>4</sup> 5) Americas Counter Smuggling Initiative, and 6) Trusted Accounts.<sup>5</sup>

The second is to compare the financial risks as they pertain to bonding requirements between the specified CBP-Industry partnerships and importers not participating in any of the subject partnerships.

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### **3.2. Methodology**

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When it was determined after the project began that we could not be provided with data on program participants for security reasons, we amended our methodology, with the concurrence of the CBP project team, as described below.

#### **3.2.1. As Planned**

Pre-and early-project discussions with the CBP project team<sup>6</sup> about our approach to this engagement centered on CBP providing us with data for samples of entries made by importers participating in each of the subject programs, as well as for a control group of importers associated with none of the programs. Data also was to be sought for samples of entry bills for importers in each of the six programs and the control group that resulted in CBP taking a write-off or otherwise failing to succeed in collection against the importer. This data, as intended in our approach, would be used to measure statistically significant variations in collection performance by each of the groups. Where valid differences were found to exist, we would have an empirical, credible and fair basis for establishing differing bond

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<sup>4</sup> Identified in the CBP Statement of Work as the Business Alliance for Secure Commerce.

<sup>5</sup> This program was stipulated in the Statement of Work, but neither we nor the CBP project team could locate references to such a program. It was not included in the scope of this project.

<sup>6</sup> The CBP project team included Robert Hamilton, Bruce Ingalls and Casey Horn. Additionally, the Contracting Officer was Lee Sullivan. The Requisitioner and Contracting Officer’s Technical Representative was Penny Covington. Jonathon Yockey was the Contract Specialist. This project was performed under contract #HSBP1106C01146.

amount formulas for each of the seven importer groups (six program participants plus non-participants).

However, shortly after beginning research for the project, we made a data request of CBP for automated data on entries made during fiscal year 2005 by importers participating in each of the subject partnership programs. Although all Crowe project team members had signed and submitted to CBP the required “Conditional Access to Confidential Commercial Information Non-Disclosure Agreement”, we and CBP Revenue Division staff later learned that our first request for the requisite data was denied for security reasons. CBP protocols for security will not permit it to divulge the identities of partnership program participants, nor do they permit making data for such groups available to us, even with the importers’ names redacted.

During this period, our early research on the partnership programs themselves revealed that of the six programs, only two share a common focus with the purpose of the continuous transaction bonds that are the subject of the study—the activities of importers and the actual entry of goods into the United States.<sup>7</sup>

Both of these developments led to certain adjustments in the goals of this engagement that were mutually determined and agreed to by Crowe and the project leaders for CBP.

### **3.2.2. As Modified**

Upon discovering that necessary data would not be available to us, the CBP project team agreed that our modified approach would be based less on quantitative analysis of CBP data on bonds and the subject partnership programs. It was also agreed that our work would alternatively derive most of its support from Crowe’s experience working with other industries in which performance and/or payment bonds are commonly used; our experience with commercial credit as granted by both financial institutions and the business-to-business trade; and from best practices in private industry.

With these modifications, our research has been based on the following activities and resources:

- On-site interviews and working sessions with CBP Revenue Division staff, including representatives of the Bond Team, Debt Management Team and Division leadership. Personnel involved were referenced by the CBP project team, but working sessions and participants involved were chosen by Crowe.
- Four one-hour input-gathering sessions (via conference calls) with bond agents representing the surety community. Agents and points of contact were selected by CBP.<sup>8</sup>

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<sup>7</sup> Those two programs are: Importer Self-Assessment and Customs-Trade Partnership Against Terrorism.

<sup>8</sup> We wish to thank the representatives of the bond agents who generously shared their time, knowledge and insights with us during these input sessions.

- Review and discussion with CBP project team members of existing reports available and previously generated within the Automated Commercial System (ACS)<sup>9</sup>. No custom or *ad hoc* reports were prepared by CBP for our use.
- Review and discussion with CBP project team members of meta-analysis reports created by Crowe from the ACS reports, where the supplied data led us to further refine it by aggregation, stratification, filtering and/or classifying it according to various logical groupings or criteria.
- Bi-weekly status meetings at the CBP Revenue Division to provide updates on period accomplishments, the flow of data and other requested resources, and project milestones.

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### **3.3. Modifications to Project Goals**

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In consultation with CBP, the modifications to the project's scope resulted in these new questions of interest:

1. Based solely on the published descriptions of each of the six partnership programs and on Crowe's experience and knowledge of the role of bonds to guarantee performance and/or payment under a contract, is there an appropriate linkage between program participation by an importer and the importer's bonding requirements?
2. With respect to collection of duties, taxes and fees, are there useful tools that CBP could adapt from the private sector in credit or financial analysis that would help reduce the level of write-offs it has experienced or otherwise complement the bonding requirement?
3. The 10% figure applied in the bond requirement to an importer's past twelve months of duties, taxes and fees billed has been studied previously by others and found to be suitable for the objectives of the bonding program. However, CBP has requested that we review the use of bonds in other industries and circumstances, specifically the amounts of such bonds, relative to the overall dollar exposure they secure.

CBP and Crowe agreed that this modified approach would be a reasonable alternative to the original requirements of the SOW that would also fit within CBP's data constraints in terms of not only security restrictions but also CBP's ability to provide suitable data without requiring unreasonable amounts of time or effort.

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<sup>9</sup> ACS is the primary information system through which all entry transactions are processed and managed by CBP. Developed in the early 1980s, it is in a multi-year process of being replaced by a new system, Automated Commercial Environment (ACE).

## 4. Bond Program Overview

### 4.1. Customs Bond Defined

#### 4.1.1. Role of Bonding

There are many general types of bonds. For example, a bidder's bond guarantees that a bidder on a contract, if awarded the contract, will enter into the contract. A payment bond guarantees some payment, whether under a contract, government statute or regulation or other requirement binding on the principal. A performance bond guarantees that the principal will perform some act or acts as stipulated in a contract or government-imposed requirement. In the event of the principal's failure to perform as required by contract or other obligation to the obligee (hence the term), the obligee may make a demand on the surety for payment. The surety investigates the claim, and makes the obligee whole, usually through the payment of money, up to the amount of the bond's penal sum.

However, it should be clear that in some cases, money paid by a surety is not an equivalent substitute for the actual performance the obligee sought from the principal. For example, when a bond construction contract is offered by a project owner, the owner desires to have the work completed, not a payment of the value of the uncompleted work. While he has the money to pay for the remaining work, he still must find a different contractor to perform the work (and be paid from the funds he received from the surety).

In this type of situation and others similar to it, a performance bond acts more as a deterrent to the principal's default than as a pure substitute for the performance. This is partly the case with the importer bonds required by CBP and is the reason that equally important to the type of bond is the purpose of the obligee in requiring the bond—does the obligee seek compensation for the principal's failure to perform or does it instead seek a financial disincentive for the principal to default? While part of the bond's purpose for CBP is to guarantee payment to CBP of importer duties, taxes and fees owed, 19 USC §1312 lists ten other non-payment types of performance required of the importer that are also guaranteed by the bonds.<sup>10</sup> In these ten additional requirements for importer bonds, the bonds' role is to discourage importer violations of CBP regulations and U.S. import law by imposing a financial cost for doing so.

#### 4.1.2. Continuous Entry Bonds

The SOW specified that the study would examine only Continuous Transaction Bonds for Activity 1 (Importer/Broker) entries.<sup>11</sup> Such bonds are required from

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<sup>10</sup> 19 CFR §113.62 (b) through (l).

<sup>11</sup> There are nine other import-related bond activities not in the scope of this study. Of these, the most commonly used bond types include Activity 1A - Drawback Payment Refunds bonds that guarantee payment of previously-paid import duties on good later exported. Activity 2 - Custodian of Bonded Merchandise bonds ensure performance under regulations governing merchandise held but not

importers making multiple entries of goods into the U.S. supply chain if they opt not to provide multiple single-entry bonds. Continuous transaction bonds are written typically for a one year term, in an amount intended by CBP to be sufficient for the importer's entries during that term, based on the amount of duties, taxes and fees charged to the importer during the previous twelve months.

The bonds guarantee the payment performance of the importer—in this case, ensuring that the importer will fulfill all financial obligations incurred in the entry of goods into the United States. The financial obligations comprise the payment in full of liquidated entries, including all supplemental duties, taxes and fees imposed (amounts above the sum paid by the importer at the time of entry), plus interest accrued on such sums.

The bonds also guarantee ten other types of performance of the importer beyond the payment of all sums statutorily defined and assessed by CBP to the importer; these include such things as making/completing an entry, producing documents requested by CBP, complying with electronic entry filing requirements and other actions related to the legal importation of goods into the United States (see footnote 10). However, when an importer fails to perform a required action, the existence of the bonds is not a pure substitute for that performance—the surety generally cannot undertake the required action when an importer does not, as discussed above. The bonds in such a case serve merely as a financial deterrent for such non-compliance by the principal. The dollar amount of the bonds has more significance to CBP where the penal sum of a bond does serve as a reasonable substitute for an importer's *payment performance*: when an importer does not make payment, payment by the surety under its bond obligation to CBP as the beneficiary puts the money due CBP in its hands, notwithstanding the importer's failure to make the payment.

Also, Activity 1 Continuous Transaction Bonds are *importer* bonds, not *carrier* bonds. These bonds are not used for and do not guarantee a carrier's compliance with CBP supply chain regulations. Similarly, these bonds are unrelated to warehouse bonds, manufacturing, smelting and refining bonds which are also provided for under the Code of Federal Regulations.<sup>12</sup>

#### **4.1.3. Other Industries' Use of Bonds**

Whether they guarantee performance or payment, bonds are commonly used in many industries in the private sector, as well as by many federal, state and local units of government. Some of these are listed in the sample below:

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yet entered into commerce in the U.S. such as by bonded warehouses, cartmen, carriers, container stations or importers carrying their own bonded merchandise. Activity 3 - International Carrier bonds apply to the operations of ships, airlines and other conveyors of international goods, ensuring that operators properly manifest the goods carried, pay for overtime services and comply with CBP regulations related to clearing the vessel. Activity 3A - Instruments of International Traffic bonds cover the movements and clearances of containers moving internationally

<sup>12</sup> 19 USC §1312.

- Contractor Licenses and Permits
- Courts
- Insurance Company Qualifying
- Land Reclamation
- Licensure of trades
- Lost Securities
- Money Transmitters
- Mortgage Brokers
- Motor Vehicle Dealers
- Patient Trust Funds
- Probate
- Public Officials
- Public Warehouse
- Self-Insured Workers' Compensation
- Subdivision development
- Supply Bonds
- Tax Bonds
- Telemarketing
- Utility deposits
- Wage and Welfare/Fringe Benefit (Union)

By far the most common use of bonds is in the construction industry, where a project owner wants assurances that the work he contracts to have performed is completed as agreed in the contract and free of liens. In this instance, the amount of the bond required from the contractor almost always is 100% of the amount of the contract.

In most of the other non-contractor examples listed above, the amount of the bond is set at some fixed dollar amount intended to serve as an additional cost imposed on the principal for violating the agreement it has with the obligee. For example, one type of utility company bond is effectively a security deposit, guaranteeing a customer's payment to the company. Because payment to the utility company by the surety is not a credit against the liability of the customer to the utility, it represents an added cost of the default. The balance due *and* the penal sum of the bond must be paid to the utility in a default. As such, the bond's role is to deter the customer from failing to pay its bills. Reclamation bonds, to consider another example, require mining companies (and others) to return land to a stipulated undamaged state after mining operations have halted. The amount of the bond—because the cost of remediation cannot be determined when the bond is posted—is simply fixed at some dollar level considered by the obligee (a state natural resources department, for example) to be sufficiently high to discourage mine owners from failing to reclaim the mined land. The same is true in professional licensing, such as for morticians, mortgage brokers, telemarketers, and others.

In the context of the importer entry bond requirement, its dual-purpose nature must be considered when comparing it to other industries' use of bonds. While the bond is partly intended to ensure collection by CBP of all duties, taxes and fees owed to it, the bond also is intended to impose a financial penalty or disincentive for non-performance in any of the other ten types of performance it guarantees.

A final point of contrast between importer entry bonds and those used in other industries: the length of time during which the financial risk exists for CBP (as obligee) is much greater. From the date of entry, CBP generally may impose supplemental duties or other added charges on an importer up to four years later. (This long period is partly associated with the length of time an appeal of the charge can require and partly with the highly detailed nature of some Harmonized

Tariff Schedule classifications reviews, among other factors.). Over a four year period, importers dissolve, disappear, and re-appear in other forms and under other names, and relocate, all creating difficulty for CBP's collection efforts. The additional risk related to this longer time element, compared to many other industries' bonding situations, increases the value of the bond requirement to CBP.

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## 4.2. Current Bond Formulas

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### 4.2.1. Formula Definition

The formula previously used in the Field, per past CBP directives is (*The sum of all duties, taxes and fees incurred by the importer in the previous calendar year*)  $\times 10\%$ . The amount determined under this formula is subject to a \$50,000 minimum and rounding up the next highest \$10,000 increment if between \$50,000 and \$100,000 or the next highest \$100,000 if greater than \$100,000.

Expanding from that one Field formula, CBP has more recently adopted five different formulas for assessing the sufficiency of a continuous transaction bond posted by an importer.<sup>13</sup> The first two are described below. Formulas 3, 4 and 5 apply to special situations (including Anti-Dumping and Countervailing duties); data limitations prevented them from inclusion among the primary areas of study in this project.

1. The new formula used by reviewers in the Field is (*The sum of all duties, taxes and fees incurred by the importer in the past twelve months*)  $\times 10\%$ . The minimum amount and rounding rules are as described above for the former Field formula.
2. The Analytical formula, for use by the Revenue Division in its bond adequacy testing, is defined by CBP as:
  - *All duties, taxes and fees incurred by the importer in the past twelve months, and all unpaid/outstanding bills,  $\times 10\%$ , plus*
  - *The balance due on all bills over 120 days old<sup>14</sup> as of the date of the review that are not under protest or had protest denied  $\times 100\%$ , plus*
  - *The balance due on all unpaid debit vouchers  $\times 100\%$ , plus*
  - *The sum of all amounts paid by the importer's surety(ies)  $\times 100\%$ .*

Minimum bond amount and rounding rules are as above.

#### 4.2.1.1. Comparison to Other Industries' Bond Requirements

As mentioned earlier, the continuous transaction entry bond has two purposes: one to ensure payment of duties, taxes and fees owed to it and a second to ensure (or at least enhance) compliance with ten other possible types of specific performance

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<sup>13</sup> Although these formulas are now in use by CBP and the trade, a formal CBP Directive codifying the amendments remains to be issued at a later date.

<sup>14</sup> CBP payment terms are 30 days from billing date.

in adherence with U.S. laws governing importation of goods. The dual nature of this bond makes comparison to other industries' bonds difficult. An additional complicating factor is that where other industries' required bond amount has a basis in a specified contract amount (thereby quantifying the exposure faced by the obligee), no such specificity is available to CBP. Its bond guarantees payment of future sums whose amount varies with the future total value of goods entered by an importer.

Except where an importer makes a cash entry, by paying all duties, taxes and fees at entry, and not through periodic monthly statements,<sup>15</sup> CBP is effectively granting the importer credit, allowing payment later for a liability incurred today. It can be argued that last year's total duties, taxes and fees paid by an importer are a good proxy for this year's and that they therefore represent the amount at risk when CBP seeks to quantify its collection risk in the current year. In this event, one can make the case that an appropriate bond amount would be 100% of the prior year's duties, taxes and fees paid. A bond amount intended to address the risk of non-performance by an importer is not included in this figure and would need to be added to make the bond amount as comprehensive as the types of required performance stipulated in 19 USC §1312.

In this context, the 10% of prior twelve months' duties, taxes and fees owed appears to be significantly lower than could be argued from the perspective of the purpose/intent of bonds guaranteeing payment performance, as well as in comparison to their use by commercial sectors where the amount of the financial risk can be quantified with reasonable precision. And as mentioned earlier, the length of time during which CBP carries a financial risk of collection with each importer, due to billings sometimes occurring up to four years after entry, represents another source of increased risk that could be used to justify a larger bond than is now required.

## **4.2.2. Formula Application**

### 4.2.2.1. Clarifying Elaboration on Formula

Though not explicit in the formula as it is documented, several points of clarification should be understood regarding the application and use of the formula by the CBP Revenue Division.

First, the formula does not include any fines, penalties, forfeitures or other such items that are tracked in the Seized Enforcement Customs Asset Tracking System (SEACATS) database.

Second, the unpaid/outstanding bills component in the first item represents unpaid bills less than 30 days old, so as not to be redundant to the second item.

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<sup>15</sup> In Periodic Monthly Statement billing, entries made in one month are totaled for payment of duties, taxes and fees on the 15<sup>th</sup> day of the following month, resulting in payment terms ranging from 15 to 44 days after the liability is incurred.



In the second item, unpaid bills over 120 days old, all unpaid interest accrued on those bills is included in the calculation. Also, the age threshold is 180 days for entries made after December 17, 2004. The age of each bill is determined as of the date of the bond sufficiency review.

Debit vouchers included in the formula are only those outstanding as of the date of the bond sufficiency review.

Bills paid by the surety that are included in the formula comprise all such payments made during the 12 months ending on the date of the review.

#### 4.2.2.2. Time Period Used as Bond Amount Basis

The formula's basis is a twelve month look-back at historical levels of entry activity by each importer. Where an importer's annual volume is stable or rising at a steady rate, this look-back is a sufficient proxy for current year activity and therefore the current appropriate bond amount.

However, when seasonal peaks exist in the importation of goods by an importer, and those peaks fall near the end date of the importer's bond, the period of high levels of imports may occur when much of the importer's bonding capacity has already been consumed by entries made earlier in the year. This can lead to situations where CBP discovers a bond insufficiency at a time when the importer is most active in bringing goods into the country. Worse, CBP may not discover the bond insufficiency until after the seasonal activity peak has passed, permitting profound levels of bond insufficiency. By the time the problem can be detected by CBP and it notifies the importer and/or surety, the importer's peak has subsided and it is much less motivated by its business needs to bring the bond into compliance with CBP requirements.

For example, a November 1, 2005 report used by the Revenue Division for bond testing revealed a large national clothing retailer—though 344 days into its bond year—had entered goods whose 10% of duties, taxes and fees had reached a level more than 100% greater than its existing bond.<sup>16</sup> Sixteen other importers on the report of insufficient bonds had overages at higher percentages (including one at 914% greater than its bond). While the dollar magnitude of this retailer's bond shortfall is related to a ceiling on bond amounts created for textile importers, the example is instructive for other still valid reasons. An importer nearing its seasonal peak has a limited risk of losing its ability to enter goods into the U.S., not only because its high season is nearly over, but also because CBP's detection and response to the bond insufficiency likely would not occur until one week to one month after the goods had been entered. (The insufficiency would not appear on CBP bond testing reports until after that time had elapsed.)

Similar problems can arise when an importer faces a significant increase in entry activity, for reasons that might range from a large new customer to a merger or acquisition of a competitor. Because it presumes that an importer's current-year

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<sup>16</sup> As a textiles importer, its bond amount is capped at \$30 million, so the violation of the bond requirement is "protected" by special treatment granted to the textiles trade.

import duties, taxes and fees will be approximately equal to the prior year's, the twelve month look-back approach to the bond formula would fail to protect CBP in the manner intended in these types of situations where the importer's entry activity varies from twelve-month period to period.

#### 4.2.2.3. Bond Testing

Bond evaluations are performed at different frequencies, according to the issue triggering the review. The 10% sufficiency review of a bond is typically performed every one or two months, with bi-monthly frequency the upper limit for time between evaluations. When unpaid debt is the cause of the review, these occur less often, unless the debt is significant, in which case an immediate review may be conducted.

The Revenue Division of CBP tests the sufficiency of continuous transaction bonds using two means, one of them semi-automated.

A report is run monthly (with an effort to generate it weekly<sup>17</sup>) from the Automated Commercial System (ACS) that lists all bonds that are less than the 10% of the previous twelve months' duties, tax and fees charged. The "Database Bond Report" includes the bond number, importer name, importer number, bond anniversary date, surety number, bond amount and a figure calculated as 10% of the cumulative duties, taxes and fees charged *since the bond date*.<sup>18</sup> Although the bond formula is based on 10% of the cumulative duties, taxes and fees during the past twelve months (as of the review date), the report provides cumulative entries data only for the year to date starting on the bond date because no report is available to provide data that are consistent with the bond formula, partly due to the 1982 vintage of the ACS database (whose replacement is currently in development). Thus, *the report is not a complete representation of all bonds failing to meet the 10% of the past twelve months' duties, taxes and fees requirement*. Importers on this report have exceeded their bond-supported duties, taxes and fees capacity in less than the twelve month period defined in the bond formula.<sup>19</sup> In other words, these importers have exceeded their bonded capacity for duties, taxes and fees in less than the one year period on which the formula is based. The extent to which additional violations are not detected because of this data shortcoming is not currently known.

The non-automated approach to bond sufficiency review is less an exercise in identifying bonds that are inadequate than one of scrutinizing the exceptions listed on the report to determine the precise amount at which the bond should be

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<sup>17</sup> An improvement that has been permitted through bond centralization, as field reviews of bond sufficiency were occurring only annually at some ports.

<sup>18</sup> An example (with importer identification data redacted) appears in Appendix C.

<sup>19</sup> Exceptions may exist if an importer's bond term is for more than one year. In the 11/1/05 report, 36 out of 149 insufficient bonds had issue dates listed that were over one year earlier. In these cases, the reported bond insufficiency could be in error, as the data for historical duties/taxes/fees would represent more than twelve months of entry activity.

rewritten. This is done through a process of manual review of the importer's account status, current existence of debit vouchers and twelve month history of payments made on the importer's behalf by a surety (as per the Analytical Formula described in section 4.2

While the data contained in the report are helpful, the review process could be much more efficient and comprehensive with better reporting from ACS. For example, the report lists each record in bond number order, instead of in order of risk to CBP (such as the dollar or percentage magnitude of the bond shortfall). The reviews of the bonds on the report therefore cannot be tied to a risk-based prioritization such as high-dollar shortfalls, shortfalls that arise early in the term of the underlying bond or importers who are repeat or chronic offenders.

## **5. CBP/Trade Partnership Programs**

In order to understand the relationship between CBP's bonding requirements and selected trade partnership programs, we examined the criteria of the Industry Partnership Program (IPP). The IPP consists of five programs designed to engage the trade community in a cooperative relationship with CBP to prevent terrorism and smuggling of illegal drugs. The IPP works with foreign manufacturers, importers, and carriers to employ business best practices and enhanced security measures to eliminate exposure to smugglers and vulnerability to terrorism. The partnership programs' primary purpose is making trade more secure, without placing undue restrictions on the flow of legitimate trade.<sup>20</sup>

### **5.1. Customs-Trade Partnership Against Terrorism**

The largest of the five IPP programs is the Customs-Trade Partnership Against Terrorism (C-TPAT) program, which is a voluntary, government-industry partnership initiative to strengthen and improve border security and the supply chain. C-TPAT is based on the core principle of increased facilitation for legitimate business entities that are compliant traders. As a result, C-TPAT offers benefits to only the most secure and compliant companies. Over 5,700 partners (importers, brokers, terminal operators, carriers and foreign manufacturers) have been validated into the program.<sup>21</sup>

To qualify for the program, companies must complete a Supply Chain Security Profile and document their status as an active U.S. importer. Additionally, participants must have a business office staffed in the United States or Canada, possess a valid, continuous import bond registered with CBP, and have active form of U.S. Importer of Record identification such as a U.S. Social Security number, U.S. Internal Revenue Service identification number, or a CBP-assigned importer identification number.

The Supply Chain Security Profile component of the C-TPAT program requires companies to conduct a comprehensive self-assessment of their supply chain security procedures. The guidelines for the self-assessment encompass areas such as Business Partner Requirements, Procedural Security, Physical Security, Personnel Security, Education and Training, Access Controls, Manifest Procedures, Information Security, and Conveyance Security. On a three-tiered basis of membership benefits, C-TPAT provides participants with the opportunity to ensure a more secure and expeditious supply chain for the company and its customers while reducing the number of CBP inspections, receiving priority processing for required CBP inspections and reducing border delay times, and becoming eligible for the Importer Self-Assessment (ISA) program.

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<sup>20</sup> Now-former Commissioner Robert C. Bonner. CBP Trade Symposium speech. 11/03/2005.

<sup>21</sup> Acting Commissioner Deborah J. Spero. C-TPAT Spring 2006 Training Seminar speech. 03/01/2006.

Once admitted into the program, companies must undergo a C-TPAT validation, a process to verify the supply chain security measures contained in the Supply Chain Security Profile. Validations will typically occur within three years of becoming a certified C-TPAT member and may be initiated based on factors such as import volume, strategic threat posed by geographic regions, or security related anomalies. While a C-TPAT validation is not audited, failure to meet the program requirements will result in the suspension or removal of C-TPAT certification status.

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## **5.2. Importer Self-Assessment**

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The Importer Self-Assessment Program (ISA) is an Industry Partnership Program that permits importers to self-assess their CBP compliance controls to reduce the number of delays associated with government inspections at the border. ISA program participants must be members of C-TPAT prior to enrolling in the program.

To qualify, ISA participants must complete the Importer Self-Assessment Questionnaire which measures the company's import operations, internal control structure, and helps CBP determine whether the requisite controls are in place for the company to qualify for self-assessment. Through the questionnaire, the company must prove that an audit trail linking payments and expenses to merchandise and a system of internal controls such as risk assessment, preventative controls, and scheduled monitoring have been implemented. Specifically, companies are required to submit documentation for key questions such as the following:

- Does the company contract with a CBP brokerage house or consulting service to provide advisory assistance?
- Are the company's internal control processes consistent with the five interrelated components of internal control as defined by the American Institute of Certified Public Accountants?
- Are there compliance requirements in place for suppliers and customs brokers?
- Describe the protocol and audit trail the company follows to ensure all elements of costs associated with imported products are declared to CBP.

The benefits associated with the ISA program include removal from the Regulatory Audit Division audit pool for focused assessments (in-depth, risk-based audits where company records and practices are examined to determine compliance with U.S. trade laws and regulations). Additionally, CBP provides consultation and guidance on risk assessment, data analysis support, and internal controls. As a result, companies will receive greater business certainty associated with more efficient management of the supply chain, and in the event that civil penalties or liquidated damages are assessed against the importer, the company's participation in the ISA will be considered by CBP.

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### **5.3. Carrier Initiative Program**

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In contrast to the ISA program, which requires participants to validate internal controls, the Carrier Initiative Program (CIP) is an anti-drug training program directed at employees of sea, air and land commercial carriers with route systems considered high-risk for drug smuggling. Under the program, carriers voluntarily sign agreements with CBP, agreeing to exercise the highest degree of care and diligence in securing their facilities and conveyances. The goals of the CIP training program are to encourage commercial carriers to share the burden of stopping the flow of illicit drugs, deter smugglers from using commercial carriers to import drugs, and provide carriers with the incentive to improve drug smuggling awareness and security.

In exchange for signing the CIP agreement, CBP will conduct domestic and foreign security site surveys, post-seizure analysis, provide training to identify security weaknesses within the company, and suggest improvements to improve security systems and protocol.

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### **5.4. Business Anti-Smuggling Coalition**

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Similar to the goals of CIP, which are to provide anti-drug smuggling training, the Business Anti-Smuggling Coalition (BASC) is led and controlled by the private sector to address the problem of concealed contraband in commercial trade. Participants are expected to follow security standards to improve their security practices and deter contraband smugglers from using legitimate shipments to introduce illegal goods into the United States.

As a voluntary program with no CBP-imposed mandates, participants must set self-imposed business standards to deter narcotics traffickers and terrorists.

As a result of a company's participation in BASC, CBP officers conduct site visits to the BASC chapters in Colombia, Venezuela, Costa Rica, Ecuador, Mexico, Panama, Peru, Jamaica, and the Dominican Republic to provide expertise, security training, and perform site surveys at manufacturing plants and port facilities.

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### **5.5. Americas Counter-Smuggling Initiative**

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The fifth program of the IPP is the Americas Counter-Smuggling Initiative (ACSI), which works in conjunction with BASC to counter the smuggling of drugs and the possible introduction of implements of terror into commercial cargo and conveyances.

The ACSI program is composed of teams of CBP inspectors assisting businesses with developing security programs and initiatives to safeguard legitimate shipments from being used as vehicles for drug smuggling or terrorism. ACSI is available to the same target countries as the BASC program and ACSI teams travel to each target country four times a year to provide hands-on training and site surveys to program members.

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## **5.6. Partnership Programs' Relationship to Entry Bonds**

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Four of the five IPP programs identified in the SOW for consideration in this study deal with supply chain issues and protecting the U.S. from entry of illegal drugs, contraband or implements of terrorism. The fifth program, Importer Self-Assessment, is a trade compliance program, designed to ensure that importers with secure supply chains have a system of business records demonstrating the accuracy of transactions and internal control procedures governing those areas considered risks by CBP. ISA participation is available only to C-TPAT participants.

### **5.6.1. Correlation between Partnerships and Bond Requirement**

The purpose of the requirement of either a single-entry or continuous transaction surety bond is to ensure the government's collection of all duties, taxes and fees owed to the U.S. under its foreign trade laws associated with the legal importation of goods into this country. The bonds have a limited role in national security, the fight against terrorism or restriction of contraband at the border: in the event of such an illegal act, federal prosecution of the offender is the deterrent, not the financial cost of a demand made by CBP on the surety. Therefore, based on our review of the programs' objectives, requirements, benefits and primary audience, and of the terms, purpose and application of the bond requirement, we do not detect a clear relationship between any of the programs and the bond requirement.

#### 5.6.1.1. Value of Quantitative Analysis

Had valid security restrictions not precluded our access to empirical data on import activity by participants in the five programs, we would have analyzed such information to seek quantitative evidence of whether a correlation exists between partnership program participation and bond insufficiency or even write-offs of uncollectible duties, taxes and fees. (If possible, the complementary analysis of the relationship between importers who have been removed *for cause* from such programs and bond insufficiency/write-offs charged to them would also have been pursued as an objective and factual indicator of whether such a correlation exists between the programs and bond sufficiency.)

By examining such factors for samples of entry activity within each of the five program groups, and comparing it to similar data for importers not in any of the programs, the degree to which program participation affects the closely-related financial, credit, payment and collection risks to CBP could be determined more scientifically. Such an analysis should be undertaken by those with access to the proper data to provide a final determination of the relationships that exist, if any.

#### 5.6.1.2. The Multicollinearity Trap

In a statistical analysis of how multiple factors influence some outcome, multicollinearity is a common problem to be avoided in the analysis. It arises where two or more of the independent variables in a model appear to accurately predict a dependent variable. Multicollinearity occurs because two (or more) of the variables are related – they measure essentially the same thing.

In examining the payment behavior of importers participating in one of the partnership programs, multicollinearity may exist because an importer's participation in one or more programs and its record of timely and accurate payments of duties, taxes and fees might *both* be indicators of some other single same factor that is the true predictor of payment performance: integrity or financial strength, for example. If this were the case, financial strength should be the determinant of an importer's bond amount, not program participation and not past payment performance. However, this is not a conclusion of this study but simply an illustration of why multicollinearity should be controlled before making conclusions about an appropriate bond amount.



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## **6. Credit Enhancement and Credit Management Practices**

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### **6.1. Credit Enhancement Tools**

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As a means of enhancing—mitigating—the risk represented in the granting of trade credit to the importer community, surety bonds have a long history of providing broad guarantees of payment and other types of performance, within the constraints of the specific terms they contain.

#### **6.1.1. Role and Function of Surety Bonds**

CBP’s primary use of the Type 1 surety bonds considered in this project is to ensure or guarantee the payment to CBP of all duties, taxes and fees owed by an importer for goods that it enters into the U.S.

As such, the guarantee afforded by the bonds and the sureties that issue them for CBP’s benefit is primarily of one specific form of performance—payment. While they have a deterrent value for non-compliance with other government regulations unrelated to the statutory levy and collection of import duties, taxes and fees, they cannot guarantee that the goods entered are free of illicit contents. They cannot guarantee that the Harmonized Tariff Schedule (HTS) classification of goods by an importer is correct or has been applied properly by the importer. Because the surety cannot—upon demand by CBP—intervene and make a misclassified entry compliant or turn an attempt to import illicit goods away from U.S. shores, the entry bonds are effectively a guarantee that the proper amounts of duties, taxes and fees (according to the HTS), properly classified, will be paid to CBP. For all suitable claims against the surety, where the importer fails to make the proper payment to CBP, the surety will. For other types of performance, the bond arguably is a deterrent of non-compliance, not a guaranty of compliance.

#### **6.1.2. Alternative or Complementary Types of Credit Enhancement**

Because CBP permits an importer’s goods to be released into the flow of commerce up to 45 days (under the Periodic Monthly Statement program) before it remits payment of the associated duties, taxes and fees, CBP is extending credit to the importer. This is an extremely common practice in private industry wherever goods or services are delivered and the vendor does not require immediate payment.

##### **6.1.2.1. Bank Letters of Credit**

A letter of credit (L/C) issued by a bank is the form of credit enhancement most similar to a bond. In both cases, the issuer underwriting various types of risk that can lead to non-payment by the obligee (importer), including a review of its financial strength to assess its ability to pay the guaranteed sums. Unlike bonds, L/Cs usually require the borrower to provide collateral, but as the importer’s size and its access to capital markets increase, this requirement fades. As with bonds, the beneficiary’s credit risk is now that of the bank issuing the L/C—when the importer cannot make payment, the L/C issuer does, relieving the beneficiary.

The term of an L/C is more definite than for bonds. While the latter usually have a specific term, followed by a maintenance period during which claims may continue to be made, once a letter of credit's maturity is reached, claims for payment may no longer be made to the issuer (although the primary claim against the borrower is unaffected). This is noteworthy for CBP, where the period from date of entry to date of a supplemental duty bill can reach four years or more.

A bank letter of credit carries a cost of up to 1% *per annum* of the amount of the L/C, although factors such as credit strength of the borrower, availability of collateral, and other relationship considerations can lead the bank to offer lower pricing. By contrast, the premium on a bond can range from ½% to 2% of the bond amount, covering its entire term and maintenance period.

#### 6.1.2.2. Indeterminate Size of Guarantee

The sums to be guaranteed to CBP are much less determinate than in other instances where bonds or L/Cs are used. For example, a completion bond on a construction project typically is for 100% for the amount of the contract, whereas letters of credit usually are used for some portion of the contract amount (often only five or ten percent or some other partial amount based on the extent of risk of default perceived by the beneficiary). CBP seeks guaranteed payment of not only the duties, taxes and fees self-reported by the importer at entry, but also any supplemental amounts that may arise through later review of entry by CBP. This makes comparisons between CBP's use of bonds or other types of credit enhancement and other industry examples difficult because situations where the dollar amount to be guaranteed is open-ended are infrequent.

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## **6.2. Credit Management Practices**

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### **6.2.1. Internal Financial Analysis and Underwriting**

#### 6.2.1.1. Financial Underwriting

It has been proposed from time to time that CBP could improve the quality of its collection rates and reduce write-offs of duties, taxes and fees by engaging in some type of credit underwriting activity of its own, complementing the role of the bond requirement.

Various forms of such underwriting might include some any one or more of these tools to assess an importer's ability to pay sums due to CBP:

- Requiring importers to provide financial reports to CBP for its analysis
- Requiring importers to provide information on their principals/owners so that credit reports on those individuals can be obtained and reviewed by CBP (Credit analysis models provide evidence that the payment performance of a business entity corresponds closely to the credit record of the owners of the business.)
- Obtaining commercial credit reports on importers, such as those from Dun & Bradstreet, Experian or others

- Obtaining trade or bank references from importers and contacting those creditors to learn about their payment experiences with the importer.

Logistically, a sizeable impediment to CBP taking on the financial underwriting task is the fact that from the date of entry, additional sums may be assessed by CBP up to four years thereafter. This creates a very large financial underwriting responsibility, because with each entry, CBP effectively enters into a multi-year credit-granting relationship with the importer. For that length of time, a single financial review—no matter how comprehensive, professional, or reliable CBP makes it—will require numerous updates until all of the importer’s bills are paid and CBP ceases to be a trade creditor of the importer.

An importer’s financial condition and payment capacity will change many times over a four year period, and the task of being able to recognize and adjust to such changes promptly represents a nearly insurmountable burden. While CBP charges interest on delinquent balances, the rate used compensates for the time value of money. Generally, among credit grantors outside of equity holders, only commercial credit sources such as banks can obtain sufficient yields on their loans to include a return that offsets the corresponding risk as well.

A second issue arises in the value added by CBP conducting its own financial analysis of importers. In our discussions with the surety trade, it was reported that prior to issuing a bond, sureties typically perform their own financial analysis of the importer (applicant) to assess its ability to make payment on all duties, taxes and fees that may be charged by CBP (and which the surety would guarantee) *when the bond is \$100,000 or greater.*<sup>22</sup> Thus, only for continuous transaction bonds between \$50,000 and \$100,000 would financial analysis by CBP not be duplicative of the work already performed by sureties.

In our input sessions with representatives of the surety industry, the opinion was expressed that CBP should do no financial underwriting of importers. However, we see no harm to sureties from CBP performing such financial reviews of importers as long as the bond program remains in place (and we have no evidence that CBP would use its own internal underwriting function to replace the bond program). But we see no need for CBP to do its own underwriting while the bond program continues (at least in its present form). Were CBP to perform such financial reviews, they be redundant to the underwriting already conducted by the bond issuer. Furthermore, it is unnecessary in the presence of the bond program because any instance of non-payment by the importer—whether due to financial inability or any other reason—is protected by the bond. With a bond, CBP is already insured against losses associated with that importer for the term of the bond. Therefore, it has only limited need to assess the financial health of the importer.

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<sup>22</sup> Even then, one bond broker reported, financial statements from the importer are not required for analysis in bond underwriting until the bond amount is \$300,000 or greater.

### 6.2.1.2. Other Risk Management Techniques

Having made the conclusion above, there are various roles that similar risk management techniques can play in CBP's collection of duties, taxes and fees. These are data-driven models that draw on CBP's own experience and information to identify common elements shared by importers where risk events occur. Similar to credit scoring models used by banks (and now by the trade) that are built on statistical reviews of satisfactory and unsatisfactory credit extensions, CBP has numerous opportunities and ample data to build such predictive models. Because they are based on actual performance data, these analyses are completely unbiased.

To the extent the data display a certain behavior by any grouping studied, that group can be reasonably expected to continue to exhibit such behavior, other things equal. A common illustration of this approach can be found in the insurance industry, where Florida homeowners face higher casualty premium rate schedules than those in certain other areas of the country because being located in Florida makes their properties vulnerable to hurricanes. Another example arises in the finance industry, whose underwriting guidelines impose a higher rate of interest to borrowers who previously have filed bankruptcy than to those who have not. These examples of treating every individual in a class according to the characteristics of the class is not discriminatory or illegal, as long as the rules or standards are applied consistently to all in the class, even though some homes in Florida have never seen hurricane conditions and some formerly bankrupt individuals have never defaulted on a loan. Thus, this type of predictive behavior analysis offers significant value in guiding CBP policies and procedures.

Appropriate data analysis may help CBP identify certain characteristics that help "predict" future behaviors or performance by importers. Appendix A2 shows one way that existing detailed, transaction-level data can be analyzed and re-reported to permit meaningful analysis. Other examples might include:

- Importers who consistently underestimate duties or commit other infractions
- Countries of origin, industries or classifications of goods that consistently result in above-average supplemental or AD/CV duties
- Importers whose seasonal peaks commonly exhaust their bonding capacity early in the bond term
- Importers whose duties taxes and fees during the last 90 days, multiplied by 0.4 (10% times 4 quarters per year), is significantly greater than or less than their current bond amount<sup>23</sup>
- Bond amounts (or ranges) from which disproportionately high levels of write-offs (or demands on surety) arise

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<sup>23</sup> As discussed elsewhere in this report, developing a partnered relationship with the trade includes communicating with importers (and their sureties) when they are significantly over-bonded, as well when they are deficient.

- Sureties whose time from demand to payment is unreasonably high (other measures of surety performance on CBP’s behalf also could be defined)
- Sureties who are relatively inactive in the CBP bonding program and might be candidates for removal from the Financial Management Service’s Listing of Approved Sureties. (In the table at right, the cumulative bond underwriting of the nine least active sureties—Companies A through I—represents less than one percent of the total for the year for all sureties. Conversely, all but 5.4% of the value entered was secured by the two most active sureties.)

<b>Surety</b>	<b>Fiscal Year 2005 Value Entered (\$000s)</b>	<b>Cumulative % of Total</b>
Company A	\$20,655	0.00002%
Company B	\$105,387	0.00012%
Company C	\$990,916	0.00105%
Company D	\$1,301,948	0.00228%
Company E	\$58,247,531	0.05725%
Company F	\$111,334,382	0.16230%
Company G	\$130,036,064	0.28500%
Company H	\$173,188,842	0.44843%
Company I	\$403,470,255	0.82914%
Company J	\$594,953,089	1.39055%
Company K	\$649,997,992	2.00389%
Company L	\$1,128,051,426	3.06833%
Company M	\$1,163,732,595	4.16643%
Company N	\$1,349,511,786	5.43984%
Company O	\$32,710,274,153	36.30549%
Company P	\$67,501,092,960	100.00000%
	<b>\$105,976,309,981</b>	

While not an endorsement by Crowe, more discussion of the use of predictive scores can be found at the Dun and Bradstreet website: <http://snipurl.com/osvl>.

One example of how to apply the new knowledge gained from deeper study of existing CBP importer data is in the collections process. For example, the Debt Management team currently initiates significant collections steps at 180 days past the bill date (Dunning Letter sent), 240 days (Surety Demand Letter sent) and 300 days (refer to Counsel for action). The timing of these three milestones can be optimized to have the greatest results by analyzing past collection efforts and their timing. Such analysis can permit CBP to pinpoint the best times to undertake each action to minimize losses.

## 7. Recommendations

### 7.1. The Bond Formula, its Application and Bond Sufficiency Testing

#### 7.1.1. Clear Definition of Formula

As mentioned in Section 4.2.2, the definition of the bond amount formula—though now reasonably established in trade and CBP practice—is not free of ambiguity. For each of the points of clarification mentioned in that section of this report, further communication and definition is needed. **When the formula ultimately is documented by a CBP Directive, we recommend that the Directive contain sufficient details about the formula (and its variations not considered in this project) to reduce the possibility of misinterpretation by either the trade or CBP staff.** Such details should include the date or time period from which historical data will be used and more detailed definitions of billing amounts or other activity measures that the formula contains.

#### 7.1.2. Seasonality or Other Variability of Importer Value Entered

An importer whose entry activity varies due to seasonality or simply is unplanned is not addressed well by the twelve month look-back used in the bond formula. Such importers probably are in the distinct minority or all importers whose activities are monitored by CBP. **We recommend, nonetheless, that without modifying the bond formula CBP could contain its risk of bond insufficiency by supplementing the formula with a “loss limit” provision.** Such a limit or collar could recognize that continuous sufficiency testing of bond levels by CBP is not practicable, but also could define a maximum tolerance level from CBP for bond insufficiency. When an importer’s bond insufficiency reaches that maximum level, the importer would be barred from further release of goods into the country until a new bond is posted that corrects the shortfall.

CBP could define the tolerance level either as a maximum percentage (200% of the existing bond amount, as one example) or as a maximum dollar shortfall (\$250,000, possibly). To fully address the risk at all levels of duties/taxes/fees for the past twelve months, the tolerance level could even be defined as the lower of the two measures. Using both tests would ensure that an importer with a \$50,000 bond whose 10%-of-duties/taxes/fees figure reaches \$110,000 (220%/\$60,000 shortfall) would be comparably handled by CBP as an importer with a \$500,000 bond and 10%-of-duties/taxes/fees level of \$900,000 (180%/\$400,000). For this concept to be evaluated further by CBP, a statistical review of bond overages should be used as the basis for proposing specific dollar and/or percentage thresholds.

#### 7.1.3. Sufficiency Testing of Importers’ Bonds

##### 7.1.3.1. Data Deficiencies

Section 4.2.2.3 of this report describes the current process followed by the Revenue Division for bond sufficiency reviews. As mentioned in that section, there are

significant data issues that make the bond reviews based on the analytical formula a very time consuming and manual process, both because the data represented by the analytical formula are not compiled into a single report for bond review purposes and because the report now used does not use a trailing twelve month time frame for cumulative duties, taxes and fees, but rather the period from the current bond anniversary date through the date of the report. **Reports generated for use in analytical bond reviews should provide data that are consistent with the bond formula.** While reporting the cumulative 10%-of-duties/taxes/fee figures from the bond anniversary date through the report date provides reliable information about the violations listed, it permits other violations to escape notice because the period represented by bond anniversary date through report date is usually shorter than the twelve month look-back period stipulated in the bond formula. The number of insufficient bonds overlooked because of this reporting problem is unknown.

Although ACS is an old database system and its replacement, the Automated Commercial Environment (ACE) is on the way, **we strongly recommend an interim data solution be sought to equip the Revenue Division with the basic data necessary to efficiently conduct bond reviews on a sufficiently recurring schedule.** Beginning on March 1, 2006 the Division began performing continuous transaction entry bond reviews for all importers, regardless of whether their bonds had been centralized at the Division offices in Indianapolis.<sup>24</sup> Although precise data are not available to quantify the extent of workload increase for the Division, early reports of continuous bond insufficiency since March 1 contain approximately five times the previous number of bonds. This added volume of work will make a further demand on accurate and timely data and management reports from ACS (or ACE) to permit the Division to maintain its pace of reviews and retain its current level of control over importers carrying insufficient bonds.

#### 7.1.3.2. Risk-Based Approach to Bond Sufficiency Review Processing

Ideally, such improved reports would also provide the Revenue Division with data to enable it to prioritize its reviews according to appropriately defined measures of risk inherent in each violation of the formula. First, however, those risk factors must be selected and then their corresponding metrics defined, so they may be incorporated into the data produced in ACS reports supporting the bond review function.

For example, while the bond insufficiency report lists the problem accounts only in bond number order (not a useful means of sequencing the analytical reviews), the report could instead be ordered by dollar size of the bond shortfall or by the percentage magnitude of the shortfall. Using the 11/01/2005 report as an example, if the Revenue Division performed its bond reviews starting with bonds having the largest percentage of shortfall to bond amount, the reviews would reach to 90% of the total dollar shortfalls listed on the report at 56 bonds (38% of the 149 bonds on that report). Alternatively, prioritizing the reviews by largest dollar

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<sup>24</sup> Reviews of the sufficiency of single-entry bonds remain localized at each port.

shortfalls listed would permit the Division to address 90% of the total dollar shortfalls in the report at only 14 bonds (10% of the bonds listed).

**We recommend that other, more refined risk factors also be applied as guides for which bonds to analyze first in each review cycle.** Examples of possible factors include: how early in the bond term the shortfall arises, importers whose bonds have been found insufficient in the past, sureties whose have been downgraded by downgraded by A.M. Best or other ratings agencies, or by ports where diligence in conducting or following up on bond reviews has lagged. With the centralization of sufficiency review activity for continuous transaction bonds at the Revenue Division effective on March 1 of this year, the 400% increase in the bond review workload there may necessitate a more risk-based approach governing prioritization of individual bond reviews, without sacrificing the continuing objective of 100% review coverage at least annually. As mentioned earlier, a benefit of this type of data-driven analysis of past performance, whether by a class of importers, within CBP's portfolio of accounts receivable or anywhere else it choose to apply such analysis, is that it is based on actual performance, not an unfounded suspicion that some behavior might occur. This point is important in its ability to make reliance on risk factors identified unassailable in terms of charges of bias or partiality.

#### **7.1.4. Developing a Shared Responsibility for Bond Sufficiency**

The current climate within the trade is largely one of importers' reliance (without ascribing a motivation to them for this reliance) on CBP to identify deficient bond amounts and notify the importer and/or its surety for response. The new bond formulas, however, are intended to provide more motivation for compliance with all financial aspects of the entry of foreign goods into the U.S. as well as financial penalties for non-compliant behaviors.

Continuing this effort toward a culture of shared responsibility, CBP must continually seek ways to develop stronger partnerships with the trade and surety communities. This is already exemplified in the six partnership programs discussed earlier. More communication and exchange of information and ideas among the parties involved (CBP, importers, bond filers or customs brokers—who may act on behalf of the importer to enter goods—and sureties) can help. **One opportunity for CBP to provide useful information that we recommend is to provide data representing a cautionary notice when a bond appears in danger of becoming insufficient, based on the Reviewer formula.**

For example, a report could compare the percent of the bond amount that has been "consumed" by the 10%-of-duties/taxes/fees-to-date (according to CBP records) to the percent of the bond term that has elapsed (age of the bond in days divided by 365). Where this ratio is greater than 1.00, it indicates that the bond is being "consumed" at a pace that will exhaust its amount before the bond term expires (assuming a one year term). A similar measurement is commonly used in contracting industries to monitor costs incurred on a contract (as a percent of the contract price) to the stage of the contract (as a percent of the length of the contract in days, weeks or months).



This report could be shared with sureties, helping them to identify clients whose bond levels may need review and/or increases, not to mention generate additional business. **We recommend that it and similarly informative reports should be pursued for development and incorporation into the next generation of the customs database, ACE.**

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## **7.2. Credit Enhancement & Credit Management Options**

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### **7.2.1. Credit Enhancement Tools**

The bond program now in place at CBP is not an off-the-shelf solution, nor are there alternative sources available without significant customization and development needs before CBP's purposes could be served to the same degree as the present bond program.

Both sureties and banks exist under various regulatory and other oversight structures to protect their owners (and depositors, in the case of government-insured U.S. banks). This oversight and environment favors lending products where risk can be reliably quantified, managed and compensated. The difficulty in CBP's need for credit enhancement of unpaid duties, taxes and fees lies in the imprecision of the amounts that might be claimed under the enhancement mechanism. (The continual consideration of the appropriate bonding formula is evidence of this uncertainty.) As a result, **the less-regulated environment of the surety industry, free of the commercial banking industry's constraints associated with protection of its depositors' assets, makes it appear to be the more suitable source for CBP's credit enhancement and payment guarantee needs.**

### **7.2.2. Risk Management Practices**

#### 7.2.2.1. Internal Financial Underwriting

In-house financial underwriting of importers does not appear to offer needed or viable complements to CBP's present bond requirements. As discussed on page 27, the surety bonds guarantee payment to CBP on behalf of the importer. This makes the financial condition of the importer of much less importance to CBP (at least as far as collection of bills is concerned) because the surety is the ultimate payment source for CBP. However, were CBP to undertake an internal program of financial analysis of importers, notwithstanding the bonds' ability to make such analysis almost a moot point, other practical considerations make internal financial analysis problematic. Mentioned in Section 6.2.1.1, these include the difficulty involved in maintaining an analysis performed at or near the date of entry continuously valid and *à propos* over the four year period during which charges may be assessed against the importer and the fact the except for importers with bonds under \$100,000, the effort by CBP would duplicate the financial due diligence already performed by the surety in conjunction with writing the bond.

**Because it can reduce only risks already transferred by the bonds to the issuing sureties and other inherent practical limitations, internal financial underwriting offers no incremental benefit to CBP, in our judgment.**

#### 7.2.2.2. Other Statistical Analysis

In Section 6.2.1.2, several methods are presented in which the tremendous volume of data available internally to CBP can be utilized to understand its risks, including likely causes of bond insufficiencies, write-offs and other risk events. While ACS has known limitations in flexibility and ease of use, the data it contains offer tremendous potential benefits to CBP that can have a strong positive influence on financial performance. Fiscal 2005 saw almost \$275 million in duties, taxes and fees receivable that were wither written off or adjusted. Of total receivables at year-end 2005 of \$2.7 billion, more than 48% was considered uncollectible. Using the data available to it to improve its collection success rate has the potential to have significant positive dollar impacts to CBP. **We recommend aggressive pursuit by CBP of the software tools and analytics needed to tap into the data resources contained in ACS (and soon, ACE) to develop quantitative models to help reduce write-offs and bad debts.**

While methods of building such an analytical framework are numerous and varied, there are some common steps to each approach:

1. Start with the identification of a broad set of characteristics applied against known "good" and "bad" bills/bonds/importers. A "good" account is one that complies with the behavior expected/required by CBP and a "bad" account is one that reflects some negative outcome: delinquency, debit vouchers issued, large supplemental duties imposed, bond insufficiency, demands made on surety, write-offs.
2. Select the data characteristics that predict a selected negative outcome.
3. In designing the model, look first for data that by itself exhibits a strong relationship to the outcome (e.g., bond insufficiency correlating to higher write-offs).
4. Use that data in a regression analysis to develop a model where the chosen characteristics work together to more accurately predict the outcome.

Once the data elements are selected and a preliminary model created, it can be tested on a sample of bonds or importers used in the model's development, and bonds or importers excluded from the sample used in building the model (i.e., data that the model has not previously seen). This testing permits an evaluation of the model's ability to distinguish between importers/bonds known to be good and those known to be "bad". The evaluation is expressed in terms of the model's success at making correct predictions instead of sending false alarms.

Any empirical data model, especially one used for its predictive abilities, must be maintained well beyond its development. Monitor the model regularly, because it will deteriorate over time as industries move in and out of favor, the strength of international economies relative to the U.S. economy ebbs and flows and other

cyclical factors, including sovereign and political shifts in source countries. However, a properly created, validated, implemented and monitored risk assessment model offers the ability to derive significant benefits from the wealth of current and historical data available in ACS.

## 8. Conclusion

This report describes how Crowe assisted CBP by examining three key aspects of the continuous transaction entry bond program.

Through our review procedures, we found no qualitative correlation between importers' participation in any of the Importer Participation Program initiatives and importer payment performance with respect to CBP's collection of duties, taxes and fees. The purposes of the two programs are distinct and any overlap or shared benefits appear to be coincidental, not cause-and-effect in nature. Therefore, we observed no reason that program participation should affect an importer's bond requirement. However, due to security limitations we were not able to perform a quantitative analysis to support this conclusion and must leave that work for others.

In this project, we considered various additional or alternative tools that CBP could employ to enhance its revenue collection. The use of financial underwriting, including various commercially available trade credit reports appears to be unnecessary in the presence of the bonding requirement. These tools appear to have limited incremental value to CBP as long as the bond program is in place. However, significantly more advanced use of data already available internally at CBP should be pursued to help it identify and understand where its operations can be improved to support the goal of maximum revenue collection.

By comparison to other industries where bonds commonly are required, the CBP Activity 1 bond program and formulas appear to be conservative. The dollar amount to be supported by each importer's bond is much more difficult to quantify than in other industries. The time period during which CBP has financial (collection) risk to an importer is comparatively long. CBP's bonds serve a double purpose in their roles as guarantees of payment of duties, taxes and fees and as financial deterrents to non-compliance with a list of various procedural requirements imposed on importers. These differences from other industries' use of bonds all argue in favor of a bond formula establishing a comparatively high level for each bond. A quantitative review of the bonds performed earlier by other consultants found the formula to be sufficient from a statistical basis.

We also have made numerous recommendations to CBP of ways that it can make more efficient use of the bond program and administer it more effectively. Chief among these is a greater use of management reporting and analysis of the Automated Commercial System database to aid in understanding areas for improvement, building predictive models for managing bonds and identifying risk-based strategies to guide CBP efforts in the most efficient direction.

# 9. Appendices

## 9.1. Appendix A1 – Report of Insufficient Bonds

PAGE

U.S. CUSTOMS & BORDER PROTECTION  
DATABASE BOND REPORT  
TSA: BNLD801 RUN TIME 5/11/01 9:46:36

IMPORTER NAME	IMPORTER NBR	BOND NBR	BEGIN DATE	SUR NBR	NEC	ACT	STA	BOND AMOUNT	BNL 7501	INSF IND	TALLY
MALITA, INC	02-22041200	69042154	20041210	891	Y	1	0	50000	913,950.11	Y	
									758,596.88	Y	
									4,282,068.57	Y	
									1,785,322.63	Y	
									672,720.18	Y	
									10,849,208.31	Y	
									538,524.31	Y	
									791,473.36	Y	
									4,184,522.15	Y	
									1,130,950.15	Y	
									620,451.17	Y	
									635,191.15	Y	
									5,069,455.60	Y	
									1,306,248.06	Y	
									632,803.38	Y	
									719,379.40	Y	
									5,406,763.92	Y	
									775,266.65	Y	
									1,327,735.12	Y	
									604,942.57	Y	
									582,176.67	Y	
									4,142,134.80	Y	
									582,827.23	Y	
									2,052,173.69	Y	
									24,839,072.27	Y	
									2,245,341.10	Y	
									13,640,091.73	Y	
									2,712,292.56	Y	
									1,086,566.81	Y	
									518,177.18	Y	
									1,577,155.14	Y	
									2,007,414.22	Y	
									551,246.64	Y	
									551,676.28	Y	
									1,189,799.03	Y	
									1,132,847.26	Y	
									563,055.01	Y	
									2,647,049.34	Y	
									1,038,055.24	Y	
									585,951.70	Y	
									21,767,453.61	Y	
									870,584.01	Y	
									630,058.08	Y	
									775,809.65	Y	
									2,087,541.80	Y	
									1,234,033.34	Y	
									12,406,488.90	Y	
									1,076,224,239.40	Y	149

Importer names, importer numbers and bond numbers have been redacted

## **9.2. Appendix A2 – Analysis of Insufficient Bonds Reported**

The summary below represents a brief analysis we conducted of the complete report illustrated in Appendix A1. That report, dated 11/1/2005 comprised 149 bonds detected by ACS as being insufficient. (The actual population of insufficient bonds is larger, due to the deficiency in the ACS report used for bond reviews discussed earlier in this report.)

Highlights of our analysis include:

- The largest groupings of bonds are at the low end, where 63 \$50,000 bonds and 46 bonds of \$50,000-\$100,000 comprise 73% of the 149 insufficient bonds reported.
- Among the \$50,000 bonds (the minimum bond size permitted), the average bond usage was 153%, indicating that the correct bond size was \$80,000 (\$76,500, rounded up to the next \$10,000).
- The average age of the bonds reported was 328 days or 90% of a one-year typical bond term. This suggests that the bonds become inadequate relatively late in each bond's term. A finding of the opposite would indicate more serious under-bonding.

The statistic "Average of Bond Usage to Term Usage" looks at this issue of the relationship between bond "consumption" and age of the bond. Assuming that an importer's use of its bond occurs evenly throughout the bond term, this ratio should never exceed 1.00. When it does, it indicates that the bond is on pace to be fully used before its term ends and a new coverage period, possibly in a greater amount, begins. (Because all bonds reflected in this data were insufficient, this statistic exceeds 1.00 for all of them. The value of this ratio arises when it is applied to bonds not yet overdrawn, as an indicator of their potential insufficiency based on their pace of use.

<b><u>Bond Amount</u></b>	<b><u>Data</u></b>	<b><u>Result</u></b>
50,000	Average of # of Days	318
	Max of BNL Amount	\$5,069,455.60
	Min of BNL Amount	\$502,186.78
	Average of % of Bond Used	153%
	Average of % of Bond Term Used	87%
	Average of Bond Usage to Term Usage	185.55%
	Number of Bonds	63
50,001-100,000	Average of # of Days	340
	Max of BNL Amount	\$3,393,026.92
	Min of BNL Amount	\$625,861.86
	Average of % of Bond Used	149%
	Average of % of Bond Term Used	93%
	Average of Bond Usage to Term Usage	164.99%
	Number of Bonds	46



<b><u>Bond Amount</u></b>	<b><u>Data</u></b>	<b><u>Result</u></b>
100,001-200,000	Average of # of Days	334
	Max of BNL Amount	\$4,491,897.59
	Min of BNL Amount	\$1,245,787.33
	Average of % of Bond Used	131%
	Average of % of Bond Term Used	92%
	Average of Bond Usage to Term Usage	146.18%
	Number of Bonds	14
200,001-300,000	Average of # of Days	314
	Max of BNL Amount	\$15,284,228.26
	Min of BNL Amount	\$3,113,349.33
	Average of % of Bond Used	203%
	Average of % of Bond Term Used	86%
	Average of Bond Usage to Term Usage	234.70%
	Number of Bonds	5
300,001-400,000	Average of # of Days	333
	Max of BNL Amount	\$5,407,884.90
	Min of BNL Amount	\$4,282,066.57
	Average of % of Bond Used	122%
	Average of % of Bond Term Used	91%
	Average of Bond Usage to Term Usage	136.49%
	Number of Bonds	5
400,001-500,000	Average of # of Days	349
	Max of BNL Amount	\$5,844,706.50
	Min of BNL Amount	\$5,129,186.07
	Average of % of Bond Used	110%
	Average of % of Bond Term Used	96%
	Average of Bond Usage to Term Usage	116.45%
	Number of Bonds	6
500,001-600,000	Average of # of Days	234
	Max of BNL Amount	\$10,998,992.79
	Min of BNL Amount	\$7,577,678.48
	Average of % of Bond Used	155%
	Average of % of Bond Term Used	64%
	Average of Bond Usage to Term Usage	260.57%
	Number of Bonds	2
*800,001-900,000	Average of # of Days	352
	Max of BNL Amount	\$10,349,208.31
	Min of BNL Amount	\$9,996,731.41
	Average of % of Bond Used	113%
	Average of % of Bond Term Used	96%
	Average of Bond Usage to Term Usage	118.09%
	Number of Bonds	2
900,001-1,000,000	Average of # of Days	353
	Max of BNL Amount	\$12,406,488.90
	Min of BNL Amount	\$12,406,488.90
	Average of % of Bond Used	124%
	Average of % of Bond Term Used	97%
	Average of Bond Usage to Term Usage	128.28%
	Number of Bonds	1

\* Indicates a gap in values listed where no bonds of the omitted size range were reported.



<b><u>Bond Amount</u></b>	<b><u>Data</u></b>	<b><u>Result</u></b>
*1,200,001-1,300,000	Average of # of Days	305
	Max of BNL Amount	\$13,640,091.73
	Min of BNL Amount	\$13,640,091.73
	Average of % of Bond Used	105%
	Average of % of Bond Term Used	84%
	Average of Bond Usage to Term Usage	125.56%
	Number of Bonds	1
*1,900,001-2,000,000	Average of # of Days	376
	Max of BNL Amount	\$21,767,453.61
	Min of BNL Amount	\$21,767,453.61
	Average of % of Bond Used	109%
	Average of % of Bond Term Used	103%
	Average of Bond Usage to Term Usage	105.65%
	Number of Bonds	1
2,000,001-2,100,000	Average of # of Days	301
	Max of BNL Amount	\$24,839,072.27
	Min of BNL Amount	\$24,839,072.27
	Average of % of Bond Used	118%
	Average of % of Bond Term Used	82%
	Average of Bond Usage to Term Usage	143.43%
	Number of Bonds	1
*11,900,001-12,000,000	Average of # of Days	357
	Max of BNL Amount	\$135,878,785.55
	Min of BNL Amount	\$135,878,785.55
	Average of % of Bond Used	113%
	Average of % of Bond Term Used	98%
	Average of Bond Usage to Term Usage	115.77%
	Number of Bonds	1
*29,900,001-30,000,000	Average of # of Days	344
	Max of BNL Amount	\$602,387,392.12
	Min of BNL Amount	\$602,387,392.12
	Average of % of Bond Used	201%
	Average of % of Bond Term Used	94%
	Average of Bond Usage to Term Usage	213.05%
	Number of Bonds	1
Total Average of # of Days	328	
Total Max of BNL Amount	\$602,387,392.12	
Total Min of BNL Amount	\$502,186.78	
Total Average of % of Bond Used	147%	
Total Average of % of Bond Term Used	90%	
Total Average of Bond Usage to Term Usage	170.94%	
Total Number of Bonds	149	



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**9.3. Appendix B – Research Resources**

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In conducting this study and researching the continuous transaction entry bond program, we relied on numerous sources of information and data in addition to that provided by or obtained through the cooperation of the staff at CBP.

We conducted four one-hour input-gathering sessions various bond brokerages that work with CBP to understand the sureties' approach to bond underwriting and whether there is a role for CBP to play in analyzing importers and assessing their financial ability to pay duties, taxes and fees billed by CBP. (Their comments were obtained with the promise of anonymity in an effort to encourage candor and honesty. Accordingly, where relied upon throughout this report, information gained from these individuals is not specifically attributed in the footnotes.)

We also consulted with or relied upon the following additional sources of information in the preparation of this study:

- *American Banker* newspaper
- American Bankers' Association
- Dun & Bradstreet, Inc.
- Financial Management Service, U.S. Department of the Treasury
- Office of the Comptroller of the Currency
- Surety Information Office
- U.S. Code of Federal Regulations