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Description of document: Small Business Administration (SBA) Memorandum of Understanding (MOU) with the Export-Import Bank of the United States (EXIM), 2004, 2013

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From: "Hopewell, Luz A."
Date: Nov 15, 2013 2:48:20 PM
Subject: Freedom Of Information Act Request

November 15, 2013

Re: FOIA Request No. 1028-3

This letter is in response to your Freedom of Information Act (FOIA) request, in which you requested information pertaining to the Memorandum of Understanding with the EX-IM bank. For tracking purposes, your tracking number is 1028-3. Attached you will find a MOU signed on June 19, 2013 between SBA and EX-IM, as well as an extension of the April 29, 2004, MOU between SBA and Exim Bank providing for co-guarantees on working capital loans, and the Information Notice that describes and incorporates the original MOU.

If you have any questions regarding your request or the information provided, please contact me either via email or in the office.

Sincerely,

Luz A. Hopewell
Deputy Associate Administrator
U.S. Small Business Administration
Office of International Trade

Memorandum of Understanding

Between

The U.S. Small Business Administration

And

Export-Import Bank of the United States

I. Purpose

The purpose of this Memorandum of Understanding (MOU) between the U.S. Small Business Administration (SBA) and the Export-Import Bank of the United States (Ex-Im Bank), (collectively the Agencies), is to confirm the commitment of both Agencies to streamlining the marketing and distribution of U.S. government trade finance products for lenders and small business exporters.

II. Background

A. SBA Trade Financing Products and Complementary Services

Under Section 7(a) of the Small Business Act, SBA is authorized to provide financial assistance through participating lenders to help eligible small business exporters access the capital needed to provide goods and services to the global marketplace, including through the following four loan guaranty programs:

1. Export Working Capital Program (EWCP): SBA provides a 90% guaranty on loans up to \$5 million made by participating lenders to eligible small business exporters for short-term working capital financing to enable small business exporters to develop foreign markets.
2. International Trade Loan Program: SBA provides up to a 90% guaranty on loans up to \$5 million made by participating lenders to eligible small business exporters for financing (a) the acquisition, construction, renovation, modernization, improvement, or expansion of productive facilities or equipment to be used in the United States in the production of goods or services involved in international trade; (b) debt refinancing; and (c) working capital.
3. Export Express Loan Program (Export Express): Under a streamlined process, SBA provides a 90% guaranty on loans up to \$350,000 and a 75% guaranty on loans of \$350,001 to \$500,000 made by participating lenders to eligible small business exporters.
4. Working Capital CAPLine Loan Program: Working Capital CAPLines are available up to \$5 million to assist small businesses with their short term working capital and operating needs in support of both domestic and export sales.

SBA's Office of International Trade (OIT) is responsible for marketing and promoting SBA's financial assistance programs for small business exporters. In addition to administering SBA's trade finance programs, OIT encourages small business exports and assists small businesses seeking to export with the assistance of business counselors at Small Business Development Centers (SBDCs), Women's Business Centers (WBCs), Veterans Business Outreach Centers (VBOCs), and SCORE (collectively "SBA Resource Partners"). In addition, SBA has trade finance specialists co-located with Ex-Im Bank and the U.S. Foreign Commercial Service nationwide at United States Export Assistance Centers (USEACs) to provide counseling and referrals on trade promotion, finance and export insurance programs.

B. Ex-Im Bank Trade Financing Products and Complementary Services

Ex-Im Bank is the official export credit agency of the United States. Its mission is to assist in financing the export of U.S. goods and services to international markets, with a mandate to encourage small businesses to participate in international commerce by making available various loan and guaranty programs, including the following:

1. Global Credit Express Pilot Loan Program (GCE): Ex-Im Bank provides small businesses with short-term, pre-export working capital loans up to \$500,000 to support the business of exporting rather than specific export transactions. Ex-Im Bank provides streamlined processing and quick turnaround on GCE loan applications. "Originators" may obtain fee income for making referrals to this direct loan program for small business exporters.
2. Express Trade Credit Insurance: Ex-Im Bank insures exporters against non-payment by foreign buyers due to commercial (insolvency, bankruptcy, default) and political (war, revolution, insurrection) reasons. This allows exporters to extend competitive, open account credit terms up to 180 days (up to 360 days for capital equipment) to increase sales to foreign buyers while being protected at 95% of the gross invoice amount. In addition, this permits insured foreign receivables to be included in the exporter's eligible borrowing base. A one-page application provides the exporter with a policy quotation and up to five complimentary foreign buyer credit indications up to \$300,000 each within five work-days.

C. Creation of NEI and President's Export Promotion Cabinet

On March 11, 2010, President Obama issued Executive Order 13534 *National Export Initiative*, which established the Export Promotion Cabinet (EPC) to coordinate the development and implementation of the National Export Initiative (NEI) with the Trade Promotion Coordinating Committee (TPCC). The overarching goals were "to improve conditions that directly affect the private sector's ability to export" and to double exports for the next five years. Among the mandates for the NEI were the promotion of Federal export assistance resources and the requirement that the EPC create a framework to promote trade services.

On February 17, 2012, President Obama issued a memorandum entitled, *Maximizing the Effectiveness of Federal Programs and Functions Supporting Trade and Investment*. The memorandum directed the EPC to take several steps, including: (1) program coordination with the TPCC to “develop strategies and initiatives in support of my Administration’s strategic trade and investment goals and priorities”; (2) improvement of customer service for exporters through BusinessUSA¹; and (3) coordination with the TPCC to efficiently utilize existing agency resources. The directive to coordinate agency resources further stated that the EPC and TPCC must look into “co-locating offices wherever appropriate [and] cross-training staff to better serve business customers at home and abroad[.]”

In response to the President’s call for action, the EPC issued a report in July 2012 entitled, *Maximizing the Effectiveness of Federal Programs and Functions Supporting Trade and Investment* (July 2012 Report). The July 2012 Report spelled out three objectives: (1) develop a national marketing campaign targeting small and medium enterprises (SMEs); (2) expand access to small business trade financing; and (3) target trade promotion support for SME exporters.

In response to the July 2012 Report’s second objective, an interagency working group designed the U.S. Global Business Solutions Initiative (USGBS). The purpose of USGBS is to expand the availability of SBA and Ex-Im Bank’s trade financing products and complementary services, as described in Sections II.A and II.B above, to small business exporters, by making the packaging and delivery of these products more efficient and effective for the Agencies, and more understandable and accessible for the lender and the small business exporter.

III. Scope

This MOU reflects SBA and Ex-Im Bank’s roles and responsibilities to conduct and execute USGBS.

A. U.S. Global Business Solutions

The basic premise of USGBS is to work with lenders to deliver trade and investment financing products based on the customer’s need, instead of delivering them by agency. USGBS has three core components that are discussed more fully below: (1) Coordination between SBA and Ex-Im Bank; (2) Coordination between the Agencies and Agency resource partners and local community organizations; and (3) Coordination between the Agencies and USGBS participating lenders.

¹ President Obama called for the creation of BusinessUSA in his October 28, 2011 Presidential Memorandum entitled, *Making it Easier for America’s Small Businesses and America’s Exporters to Access Government Services to Help them Grow and Hire*. BusinessUSA is a common, open, online platform and web service with dedicated resources that disseminates core information regarding the Federal Government’s programs and services relevant to small businesses and exporters. The purpose of BusinessUSA is to make it easier for inexperienced small businesses and exporters to find the answers and assistance they need quickly, regardless of which agency provides the assistance. The design, development and operation of BusinessUSA is a collaborative effort of the U.S. Department of Commerce and SBA.

1. Coordination between SBA and Ex-Im Bank

Under USGBS, SBA and Ex-Im Bank will continue to engage the U.S. Department of Commerce (DOC), the United States Department of Agriculture (USDA), the United States Trade and Development Agency (USTDA) and the Overseas Private Investment Corporation (OPIC) to identify federal products and services to be included in USGBS.

SBA and Ex-Im Bank will jointly create two types of marketing materials for USGBS (hereinafter referred to as “USGBS marketing materials”): (1) materials to educate USGBS participating lenders about USGBS programs and services; and (2) materials for lenders to distribute to their small business customers that explain the available products and the best points of contact for the small business customer at either SBA or Ex-Im Bank. The USGBS marketing materials will be branded with a newly created USGBS logo. The Agencies will work together to facilitate the creation of a USGBS landing page on BusinessUSA.

SBA and Ex-Im Bank will cross-train each other’s staff on the menu of USGBS products and services to promote better referrals of small businesses to the agency that can best suit their needs. Once trained, the Agencies will provide these specialists with USGBS marketing and training materials, and assign them to manage relationships with specific USGBS participating lenders. The Agencies will also coordinate attendance of USGBS-trained staff at international trade events hosted by third parties.

The Agencies intend to work together to track the effectiveness of USGBS on increasing small business use of U.S government trade financing programs and marketing services. The Agencies anticipate that this system will track data on small business customers that benefit from USGBS, and the types of referrals made by SBA, Ex-Im Bank, other agencies, SBA Resource Partners, and USGBS participating lenders. From this data, the Agencies hope to identify more specific metrics on which to measure the success of USGBS.

2. Coordination between the Agencies and Agency resource partners and local community organizations

SBA and Ex-Im Bank will provide training to SBA’s District Directors, SBA District International Trade Officers, and SBA Resource Partners on the menu of USGBS products and services to help steer small businesses to the most appropriate USGBS product or service for their needs. SBA and Ex-Im Bank will also market USGBS to local community organizations, such as District Export Councils, Manufacturing Extension Partnerships, and state and local government entities, and provide training on USGBS products and services to these organizations upon request.

3. Coordination between the Agencies and USGBS participating lenders

All lenders with a valid SBA Loan Guaranty Agreement (SBA Form 750) are eligible to participate in USGBS. The Agencies may develop additional criteria for lenders to be eligible to become USGBS participating lenders. Eligible lenders will be required to sign a separate Partner Agreement with Ex-Im Bank, on behalf of the Agencies, to become a

USGBS participating lender. SBA authorizes Ex-Im Bank to execute each such Partner Agreement on behalf of SBA. Each Partner Agreement will, at a minimum, articulate the scope of obligations and duties of the USGBS participating lender and Ex-Im Bank, and the standards for the use of the USGBS logo on marketing materials. A template Partner Agreement is attached hereto as Attachment A.

USGBS participating lenders will receive educational materials about available programs and services, and marketing materials to distribute to their small business customers that explain the available products and the best points of contact for the small business customer at either SBA or Ex-Im Bank. SBA and/or Ex-Im Bank trade finance specialists will also offer training to USGBS participating lenders on the products and services offered under USGBS.

B. Specialized Global Solutions

In addition to USGBS, SBA and Ex-Im Bank will work with other Federal agencies to create Specialized Global Solutions (SGS). SGS is a subset of USGBS that will target narrower industry segments and can be included in packages provided to USGBS participating lenders on an as-needed basis. Examples of narrower industry segments include support for exporting agricultural and forest products provided by USDA, and foreign direct investment provided by OPIC. Any marketing materials provided to a USGBS participating lender as part of SGS will bear either the USGBS logo or other branding that the Agencies will agree to at a later date.

IV. Authority

SBA enters into this MOU under the authority of: (1) section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)), which enables the SBA to cooperate with other Federal agencies to provide technical, managerial and informational aids to small businesses; (2) section 7(a)(14) of the Small Business Act (15 U.S.C. 636(a)(14)), which authorizes SBA to aggressively market its export financing program to small businesses; and (3) Section 22 of the Small Business Act (15 U.S.C. 649), which authorizes SBA's OIT to market SBA's trade finance programs.

Ex-Im Bank enters into this MOU under the authority of Sections 2(a)(1) and 2(b)(1)(E)(i)(I) of the Export Import Bank Act of 1945 (12 U.S.C. 635(a)(1) and 12 U.S.C. 635(b)(1)(E), respectively), as amended.

V. Roles and Responsibilities

The Agencies intend to cooperate to develop, expand and market USGBS and SGS to assist small business exporters.

A. In furtherance of this goal, SBA will:

1. Provide a point of contact person to facilitate communication between SBA and Ex-Im Bank for USGBS and SGS.

2. Provide Ex-Im Bank with educational materials on SBA's trade financing products and complementary services as described in Section II.A of this MOU to distribute to Ex-Im Bank trade finance specialists.
 3. Coordinate with Ex-Im Bank to train Ex-Im Bank trade finance specialists on SBA's trade financing products and complementary services as described herein.
 4. Review draft USGBS marketing materials designed by Ex-Im Bank to provide feedback, as appropriate, and written concurrence prior to public distribution.
 5. Provide information about USGBS to SBA participating lenders, including information about how to become a USGBS participating lender.
 6. Distribute USGBS marketing materials as described in Section III.A.1 of this MOU to USGBS participating lenders.
 7. Engage DOC and the BusinessUSA team to facilitate the incorporation of a USGBS landing page onto BusinessUSA.gov.
 8. Coordinate with Ex-Im Bank to train USGBS participating lenders on the menu of USGBS products and services.
 9. Coordinate with Ex-Im Bank to engage other Federal agencies to contribute products and services to the USGBS and SGS menus.
 10. Assist Ex-Im Bank to develop a system to track the effectiveness of USGBS on use of U.S government trade financing programs and marketing services, focusing on small business customers that benefit from USGBS, and referrals made by SBA, Ex-Im Bank, other agencies, SBA Resource Partners, and USGBS participating lenders.
- B. In furtherance of this goal, Ex-Im Bank will:
1. Provide a point of contact person to facilitate communication between SBA and Ex-Im Bank for USGBS and SGS.
 2. Provide SBA with educational materials on Ex-Im Bank's trade financing products and complementary services as described herein to distribute to SBA trade finance specialists.
 3. Coordinate with SBA to train SBA trade finance specialists on Ex-Im Bank's trade financing products and complementary services as described herein.
 4. Design a logo for USGBS and secure any intellectual property protections at Ex-Im Bank's sole discretion.
 5. Design marketing materials as described herein and provide SBA with draft copies of such materials so that SBA may provide written concurrence on such materials prior to public distribution.

6. Provide information about USGBS to Ex-Im Bank participating lenders, including information about how to become a USGBS participating lender.
7. Distribute USGBS marketing materials as described herein to USGBS participating lenders.
8. Execute Partner Agreements with USGBS participating lenders on behalf of SBA and Ex-Im Bank and provide copies of executed Partner Agreements to the SBA Point of Contact specified in Section VI of this MOU.
9. Work with SBA, DOC and the BusinessUSA team to design a USGBS landing page that can be incorporated into BusinessUSA.gov.
10. Coordinate with SBA to train USGBS participating lenders on the menu of USGBS products and services.
11. Coordinate with SBA to engage other Federal agencies to contribute products and services to the USGBS and SGS menus.
12. Take the lead to track the effectiveness of USGBS on use of U.S government trade financing programs and marketing services, focusing on small business customers that benefit from USGBS, and referrals made by SBA, Ex-Im Bank, other agencies, SBA Resource Partners, and USGBS participating lenders.

VI. Points of Contact

SBA

Dennis R. Chrisbaum
 Director, International Trade Finance
 Office of International Trade
 U.S. Small Business Administration
 409 Third Street, SW
 Washington, DC 20416
 Phone: (202) 205-6885
 Email: dennis.chrisbaum@sba.gov

Ex-Im Bank

Charles D. Tansey
 Senior Vice President
 Small Business Group
 The Export Import Bank of the United States
 811 Vermont Avenue, NW
 Washington, DC 20571
 Phone: (202) 565-3701
 Email: Charles.tansey@exim.gov

VII. Term, Termination and Amendment

This MOU shall take effect on the date of the last approving signature (the Effective Date). This MOU may be amended at any time by written agreement of the Agencies. Either Agency may terminate its participation in this MOU upon thirty (30) days written notification to the other Agency. Unless extended by amendment, this MOU will remain in full force and effect for a period of three years after the Effective Date, at which point it shall terminate without any further action required by either Agency.

VIII. Mutual Understandings

- A. The Agencies agree that Ex-Im Bank will utilize the Partner Agreement with all USGBS participating lenders, with any changes to the Partner Agreement to be approved by writing in advance by the Agency Points of Contact designated in this MOU. The Agencies agree that all Partner Agreements shall contain the following language:

This Partner Agreement is separate and apart from any other agreement that [Partner] has executed with SBA, Ex-Im Bank or any other Federal agency participating in USGBS. To the extent this Partner Agreement or any aspect of USGBS is inconsistent with the terms or requirements of any SBA, Ex-Im Bank or any other participating Federal agency agreement, the respective SBA, Ex-Im Bank or such other participating Federal agency agreement shall control.

- B. Neither Agency's judgment may be substituted for the other Agency's decision-making in the administration of programs and services, especially with regard to any determinations of eligibility or creditworthiness for the other's programs and/or services. SBA and Ex-Im Bank shall not serve as a representative of the other and, except as expressly stated in this MOU, SBA and Ex-Im Bank are not authorized to act on the other's behalf.
- C. The Agencies understand and agree that Ex-Im Bank will be the sole owner of any intellectual property protections claimed for the design of the USGBS logo. The Agencies further understand and agree that SBA will have permission to use the USGBS logo for all purposes related to generating and distributing USGBS marketing materials to accomplish the goals of this MOU.
- D. The Agencies understand and agree that any marketing materials, print or electronic, developed pursuant to this MOU are USGBS materials and will bear only the USGBS logo designed by Ex-Im Bank. At no time may such marketing materials use SBA's, Ex-Im Bank's or any other Federal agency's logo or seal.
- E. To the extent Ex-Im Bank or SBA identifies information necessary for USGBS that would require approval from the Office of Management and Budget for an information collection and/or distribution of information, Ex-Im Bank and SBA will work together to obtain such approval prior to collecting or distributing such information.

IX. General Provisions

- A. This MOU in no way restricts either of the Agencies from participating in any activity with other public or private agencies, organizations, or individuals.

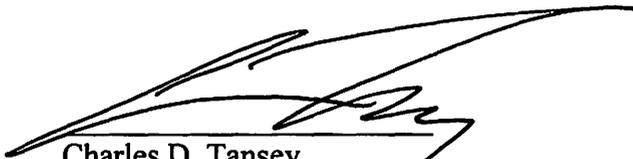
- B. This MOU is neither a fiscal nor a funds obligation document. Any commitments made by the Agencies as a result of this MOU are subject to the availability of appropriated funds and budget priorities. Nothing in this MOU, in and of itself, obligates the Agencies to expend appropriations or to enter into any contract, assistance agreement, interagency agreement, or incur other financial obligations. Any transaction involving transfer of funds between the parties to this MOU will be handled in accordance with applicable laws, regulations and procedures under separate written agreements.
- C. Both Agencies agree that other Federal agencies may become USGBS partners upon execution of an amendment to this MOU. Both Agencies further agree that SBA and Ex-Im Bank must execute any and all amendments to this MOU with other Federal agencies that seek to become USGBS partners.
- D. Both Agencies agree that any Partner Agreements Ex-Im Bank may execute with USGBS participating lenders pursuant to this MOU may remain in full force and effect only so long as this MOU is in effect.
- E. Nothing in this MOU shall obligate either Agency to undertake any activity not consistent with its laws, regulations or priorities.
- F. Both Agencies acknowledge that some joint training and outreach activities contemplated in this MOU may be subject to additional negotiation and a separate signed agreement pursuant to SBA's co-sponsorship authority (15 U.S.C. §633(h)).
- G. This MOU is strictly for internal management purposes for each of the Agencies. It is not legally enforceable and shall not be construed to create any legal obligation on the part of either Agency. This MOU shall not be construed to provide a private right or cause of action for or by any person or entity.
- H. All agreements herein are subject to, and will be carried out in compliance with, all applicable laws, regulations and other legal requirements.

[Signature Page Follows]

X. Signatures

The following officials are authorized to execute this agreement on behalf of their respective Agencies.

FOR THE EXPORT-IMPORT BANK OF THE UNITED STATES:



Charles D. Tansey
Senior Vice President, Small Business Group

Date: 6/19/13

FOR THE U.S. SMALL BUSINESS ADMINISTRATION:



Dario Gomez
Associate Administrator for International Trade

Date:

Partner Agreement
Pursuant to the Memorandum of Understanding Between the
U.S. Small Business Administration
And
Export-Import Bank of the United States
Regarding the
U.S. Global Business Solutions Initiative

As set forth in the Memorandum of Understanding (“MOU”) between the U.S. Small Business Administration (“SBA”) and the Export-Import Bank of the United States (“Ex-Im Bank”) regarding the U.S. Global Business Solutions Initiative (“USGBS”), Ex-Im Bank enters into this Partner Agreement with [Name of Lender] (hereinafter referred to as “the Partner”) (collectively referred to as “the Parties”), dated as of _____, 2013 (the “Effective Date”) to participate in USGBS.

WHEREAS:

1. The President of the United States established the Export Promotion Cabinet (EPC) to coordinate the development and implementation of the National Export Initiative (NEI) with the Trade Promotion Coordinating Committee (TPCC) on March 11, 2010 through Executive Order 13534 *National Export Initiative*;
2. The President of the United States mandated that the EPC promote Federal export assistance resources and create a framework to promote trade services and coordinate Federal programs;¹
3. The EPC established an inter-agency working group to expand access to small business trade financing;
4. The inter-agency working group designed USGBS to expand the availability of trade financing products and complementary services to small business exporters, by making the packaging and delivery of these products more efficient and effective, and more understandable and accessible for lenders and small business exporters;
5. SBA and Ex-Im Bank, as members of such working group, entered into the MOU to implement USGBS to expand access to small business trade financing by combining the various SBA and Ex-Im Bank trade and investment financing programs under one marketing umbrella;
6. Section II of the MOU describes the menu of SBA and Ex-Im Bank trade financing products and complementary services that comprise USGBS;
7. Pursuant to the MOU and the Export Import Bank of 1945, as amended, Public Law 112-122 (May 30, 2012), Ex-Im Bank enters into Partner Agreements with eligible lenders on behalf of both Ex-Im Bank and SBA to assist the lenders in delivering SBA and Ex-Im Bank trade and investment financing programs to their small business customers.
8. The Partner represents that it is eligible to become a USGBS participating lender because it has a

¹ Presidential Memorandum on February 17, 2012, *Maximizing the Effectiveness of Federal Programs and Functions Supporting Trade and Investment*.

valid SBA Loan Guaranty Agreement (SBA Form 750). The Partner's SBA Lender ID Number is:

_____.

9. The Partner supports the development of the U.S. small business and international trade communities; supports the goals and mission of Ex-Im Bank, SBA and USGBS; and is willing to engage customers with whom it has established relationships, as well as the general public, in order to carry out USGBS.

Now therefore, Ex-Im Bank and the Partner agree to the following:

I. Roles and Responsibilities

A. The Partner agrees to:

1. Participate in training offered by U.S. federal government finance and trade specialists on all the products and complementary services under USGBS.
2. Utilize and distribute USGBS marketing materials provided by Ex-Im Bank or SBA.
3. Use the USGBS logo and name only when promoting USGBS and in accordance with any guidelines provided by Ex-Im Bank.
4. As appropriate, offer USGBS financing solutions to small business exporters and refer small business exporters to the best points of contact for the small business customer at either SBA or Ex-Im Bank for additional USGBS complementary services.
5. Upon request, and subject to applicable law, provide Ex-Im Bank with data pertaining to financing or other USGBS products or complementary services provided to small business exporters.
6. Notify Ex-Im Bank if the Partner is no longer eligible to be a USGBS participating lender.

B. Ex-Im Bank agrees to:

1. Coordinate with SBA to provide training to the Partner in the products and complementary services available under USGBS.
2. Provide the Partner with USGBS marketing materials to be used in promoting all products and complementary services offered under USGBS to their customers.
3. Authorize the Partner to use the USGBS logo and name only when actively promoting USGBS and in accordance with any guidelines provided by Ex-Im Bank.

III. General Provisions

- A. This Partner Agreement is separate and apart from any other agreement that [Partner] has executed with SBA, Ex-Im Bank or any other Federal agency participating in USGBS. To the extent this Partner Agreement or any aspect of USGBS is inconsistent with the terms or requirements of any SBA, Ex-Im Bank or any other participating Federal agency agreement, the respective SBA, Ex-Im Bank or such other participating Federal agency agreement shall control.

- B. Ex-Im Bank reserves the right to withdraw the Partner's authorization to use the USGBS logo and name at any time upon written notice to the Partner.
- C. Any obligation of Ex-Im Bank to perform under this Partner Agreement, on its behalf or SBA's behalf, is subject to available appropriations and other agency resources.
- D. This Partner Agreement shall not constitute a legal partnership or any other type of agency relationship. Ex-Im Bank, on its behalf and on SBA's behalf, and the Partner agree to fully maintain their own separate and unique functions and accountabilities. No provisions contained in this Partner Agreement should be construed as an exclusive working relationship between Ex-Im Bank, on its behalf and on SBA's behalf, and the Partner.
- E. Neither Party shall have the right to assign or otherwise transfer its rights or responsibilities under this Partner Agreement without the express prior written consent of the other party.
- F. This Partner Agreement shall not be construed to provide a private right or cause of action for or by any person or entity.
- G. This Partner Agreement shall be governed by the federal laws of the United States and is subject to the jurisdiction of the U.S. Federal Courts.

IV. *Points of Contact*

The points-of-contact for each of the Parties are as follows:

For Ex-Im Bank:

James G. Burrows Jr.
 Vice President Sales & Marketing
 Small Business Group
 The Export Import Bank
 of the United States
 Phone: (202) 565-3801
 Email: james.burrows@exim.gov

For [NAME OF PARTNER]:

[Name]
 [Title]
 [Company]
 [Address]
 [Tel.]
 [E-mail]

The Parties agree that they will notify the other party in writing of any changes regarding the contact information listed above.

V. *Term, Termination and Amendment*

This Partner Agreement shall take effect on the Effective Date. This Partner Agreement may be amended at any time in writing executed by both Parties, so long as the term of such amendment does not exceed the term of the MOU between SBA and Ex-Im Bank. Either Party may terminate this Partner Agreement upon delivery of written notification to the other Party. Unless the MOU between SBA and Ex-Im Bank referenced herein is terminated sooner, this Partner Agreement will remain in full force and effect for a period of one year after the Effective Date, at which point it shall terminate without any further action required by either Party. If the MOU between SBA and Ex-Im Bank referenced herein is terminated prior to the expiration of this Partner Agreement, this Partner Agreement shall terminate on the same date as the MOU without any further action required by either Party.

VI. Signatures

The following individuals are authorized to execute this Partner Agreement on behalf of their respective organizations:

**EXPORT-IMPORT BANK
OF THE UNITED STATES**

[NAME OF PARTNER]

By: _____

By: _____

Name:

Name:

Title:

Title:

Appendix 3

EX-IM/SBA Co-guaranty Agreement

**REINSTATEMENT OF
MEMORANDUM OF UNDERSTANDING
BETWEEN
U.S. SMALL BUSINESS ADMINISTRATION
AND
EXPORT-IMPORT BANK OF THE UNITED STATES**

On April 29, 2004, the U.S. Small Business Administration (SBA) and the Export-Import Bank of the United States (Ex-Im Bank) (collectively, the Parties), entered into a Memorandum of Understanding (MOU) to establish a co-guarantee program for export working capital loans extended by financial institutions to small business concerns engaged in exporting.

Under the terms of the MOU, which expired on April 29, 2006, the Parties agreed that the MOU could be renewed by written agreement of the Parties.

Considerable success has been achieved under the MOU and the Parties agree that there is a need for continued collaboration. Therefore the Parties agree to reinstate the MOU for a five-year period, unless one of the Parties terminates its participation sooner. The Parties ratify all actions taken by the Parties pursuant to the MOU during the period since the original term expired, and they agree to abide by the terms and conditions of the April 29, 2004 MOU during the five-year term of this Reinstatement, with the following modifications:

- Paragraph III.F. of the MOU is amended to read as follows:

F. Maximum Outstanding Aggregate Amount of Ex-Im Bank's Co-Guarantees.

The maximum outstanding aggregate amount of Ex-Im Bank's co-guarantees under this MOU will not exceed \$50,000,000.

- Paragraph IV.A.2. of the MOU is amended to add the following subparagraph:

(e) A copy of the EIB-SBA Form 84-1 (Joint Application for Working Capital Guarantee) submitted by the Lender to SBA.

This Reinstatement is confirmed by the signatures placed below and will be effective when signed by both Parties.

Signed by:

U.S. Small Business Administration

Hector V. Barreto
Administrator

Date

Export-Import Bank of the United States

James H. Lambright
President and Chairman

Date



SBA Procedural Notice

TO: All Employees

CONTROL NO.: 9000-1539

SUBJECT: Procedures for Implementation of
SBA-Eximbank
Co-Guarantee MOU

EFFECTIVE: 9/8/2004

This Notice is to announce that SBA and the Export-Import Bank of the United States (Ex-Im Bank) have signed a Memorandum of Understanding (MOU) that provides for a program of Co-Guaranteed loans to small business exporters. This Notice also outlines the procedures that will be used in the processing of requests for Co-Guaranteed loans.

Unless otherwise stated, the terms and conditions of Co-Guaranteed loans will be determined by SBA rules and regulations for the Export Working Capital Program (EWCP). The Co-Guaranteed loan program is to be used where it will serve the best interests of the small business exporter, and only if the proposed loan meets the requirements of the MOU as set forth in this Notice. The Borrower and the Lender may benefit from a Co-Guaranteed loan, because Ex-Im Bank will be providing an additional credit enhancement.

The MOU was signed on April 29, 2004, and will remain in effect for 2 years. A copy of the MOU is attached to this Notice.

Program Facts

- The gross amount of the Co-Guaranteed loan cannot exceed SBA's established maximum gross loan amount.
- Ex-Im Bank will only provide a Co-Guarantee when SBA has already agreed to provide a guarantee for SBA's established maximum guarantee amount.
- The Lender must retain a 10% un-guaranteed portion of the Co-Guaranteed loan.
- In no case will the amount of Ex-Im Bank's Co-Guarantee exceed the amount of SBA's guarantee.

The following are some examples of possible Co-Guaranteed loan scenarios under SBA's current program structure:

Example #1

Outstanding Loan Amount	\$2,000,000
SBA Guarantee Amount	\$1,500,000
Ex-Im Bank Co-Guarantee Amount	\$ 300,000

Lender 10% Unguaranteed Amount \$ 200,000

Benefit to Lender and Borrower: With SBA guarantee only, Lender can obtain 75% guarantee. With addition of Ex-Im Bank Co-Guarantee, Lender will have a 90% guarantee.

Example #2

Assumption: Borrower has existing 7(a) loan with an outstanding loan amount of \$1,000,000 and an SBA guarantee of \$750,000. Borrower needs an export working capital line in the amount of \$1,000,000:

Co-Guaranteed Loan Scenario:

Outstanding Loan Amount	\$1,000,000
Outstanding SBA Guarantee Amount	\$ 750,000
a. Additional New Loan Amount	\$1,000,000
SBA Guarantee on New Loan	\$ 750,000
Ex-Im Guarantee Amount	\$ 150,000
Lender 10% Unguaranteed Amount	\$ 100,000

Benefit to Lender and Borrower: With SBA guarantee only, Lender can only offer a line of \$833M with a 90% guarantee. With addition of Ex-Im Bank Co-Guarantee, Lender can offer the full \$1.0M line with a 90% guarantee.

Please note that the calculations in the examples may change when the temporary increase in SBA's maximum guarantee authority to \$1,500,000 sunsets on September 30, 2004.

Eligible Use of Proceeds

- To acquire inventory for export or to be used to manufacture goods for export;
- To pay the manufacturing costs of goods for export [excluding the costs of fixed assets or capital goods];
- To purchase goods or services for export;
- To support Standby Letters of Credit related to export transactions;
- For pre-shipment working capital directly related to export orders; or,
- For post-shipment foreign accounts receivable financing.

Ineligible Use of Proceeds

- To support the export of any item whose cost consists of less than 50 percent U.S. content.
- To support the export sale of any item where the terms of sale are not in compliance with the Country Limitation Schedule (CLS). The CLS means the schedule published from

time-to-time by EX-IM Bank and available at http://www.exim.gov/tools/country/country_limits.html.

- To support the export of any Defense Articles or Defense Services. For purposes of the MOU, the following are considered Defense Articles or Defense Services: (i) any items sold to military organizations, police forces or other security services, (ii) any items designed primarily for military use; (iii) any items with dual military and civilian use.
- To support the export of technology, fuel, equipment, materials, or goods and services to be used in the construction, alteration, operation or maintenance of nuclear power, enrichment, reprocessing, research or heavy water production facilities.
- To support the small business exporter's domestic sales.
- To acquire fixed assets or capital goods for use in the small business exporter's business.
- To acquire, equip, or rent commercial space overseas.
- To serve as a Warranty Letter of Credit.
- To repay pre-existing debt or future indebtedness of the small business exporter (however, refinancing of an existing SBA EWCP line of credit is allowed).

APPLICATION PROCESS

A small business exporter seeking a Co-Guaranteed loan must apply to a Lender that is a participant in SBA's 7(a) Guaranty Loan Program. PLP and SBAExpress processing are not eligible for an Ex-Im Bank Co-Guarantee under the MOU. The Lender must submit a completed EIB-SBA Form 84-1 (Joint Application for Working Capital Guarantee) to the SBA Senior International Credit Officer [SICO] in the USEAC serving the geographic area where the small business exporter's headquarters is located.

The SICO must evaluate and process the EWCP loan application in accordance with SBA rules for the EWCP loan program. After the EWCP loan application is approved by SBA, if the SICO determines that the loan meets the requirements under the MOU for a possible Ex-Im Bank Co-Guarantee, then the SICO must submit a request for a Co-Guarantee to Ex-Im Bank, following the procedures outlined in Section IV.A.2 of the MOU. The request must include the following documents:

- An original **Application and Co-Guarantee Approval Request** (See Attachment A to MOU), signed by the SICO
- A copy of the draft **SBA Loan Authorization** for the Co-Guaranteed loan
- An original **SBA/Ex-Im Bank Co-Guarantee Addendum** (See Attachment B to MOU) which has been filled in with the required information for the Co-Guaranteed loan
- A copy of the **SBA Credit Memorandum** prepared by the SICO recommending SBA approval of the EWCP loan

Within 7 business days of receipt of the SBA request, Ex-Im Bank will advise the SICO of Ex-Im Bank's decision. If Ex-Im Bank agrees to Co-Guarantee the EWCP loan, the decision will be conveyed to the SICO with the following documents:

- The original **Application and Co-Guarantee Approval Request**, signed by an authorized representative of Ex-Im Bank

- The original **SBA/Ex-Im Bank Co-Guarantee Addendum**, signed by an authorized representative of Ex-Im Bank

The SICO must then prepare the final version of the Loan Authorization, and attach the original SBA/Ex-Im Bank Co-Guarantee Addendum to the Loan Authorization. Both the Loan Authorization and the SBA/Ex-Im Bank Co-Guarantee Addendum must be signed on behalf of the Administrator by an authorized SBA representative and forwarded to the Lender. Upon receipt, the Lender must sign both the Loan Authorization and the SBA/Ex-Im Bank Co-Guarantee Addendum. The SBA/Ex-Im Bank Co-Guarantee Addendum amends the Loan Authorization to add specific loan conditions applicable to the Co-Guarantee program. The Lender shall use the required SBA forms to close the Co-Guaranteed EWCP loan.

FEES

The Lender must pay SBA the amount of SBA fees set forth in the Loan Authorization. The Lender must also pay Ex-Im Bank the Ex-Im Bank Co-Guarantee Fee set forth in the SBA/Ex-Im Bank Co-Guarantee Addendum. The Lender is responsible for paying SBA and Ex-Im Bank their fees separately, and the Lender's failure to pay [a] the SBA guarantee fee and ongoing servicing fee, and [b] the Ex-Im Bank Guarantee Fee may result in a denial of liability or cancellation under the Co-Guarantee[s].

LOAN SERVICING AND LIQUIDATION

The Lender must service all Co-Guaranteed Loans made under the MOU in accordance with SBA servicing rules. If the SBA servicing rules require SBA approval of an action, SBA will provide Ex-Im Bank with notice of the servicing action concurrently with SBA approval.

The Lender must inform SBA of any material adverse change in the financial or other condition of a Borrower under a Co-Guaranteed loan. SBA will notify Ex-Im Bank in writing within 10 business days after receipt of such notification from the Lender.

The Lender must liquidate (and litigate, if necessary) all Co-Guaranteed loans in accordance with SBA rules. SBA will be responsible for oversight of Lender liquidation and litigation. SBA will have the sole discretion to approve liquidation/litigation actions (if required by SBA rules), and will provide Ex-Im Bank with notice of SBA's approval. To the extent that any liquidation actions can be taken after the Lender's completion of liquidation, SBA will have the exclusive right to pursue collection of all amounts due itself and Ex-Im Bank under the Co-Guaranteed loan.

If the Lender requests a purchase of the Co-Guaranteed loan, the Lender must prepare a joint purchase request to SBA and Ex-Im Bank. The Lender shall deliver the joint purchase request to SBA only. After SBA has examined all of the Lender's purchase documentation, SBA will determine in its sole discretion for its own behalf, consistent with SBA requirements, and on behalf of Ex-Im Bank whether or not the joint purchase request should be honored. Under the MOU, Ex-Im Bank has agreed to be bound by SBA's decision with respect to a joint purchase request. Once the SBA employee handling the joint purchase request determines that it should

be honored, the employee must follow the purchase procedure outlined in Section IV.B.6. of the MOU.

SBA and Ex-Im Bank will separately pay the Lender each agency's respective guaranteed share of the approved joint purchase request. The Lender will have no recourse against SBA or Ex-Im Bank for the other agency's guaranteed share of the Co-Guaranteed loan.

RECOVERIES

If any liquidation/litigation remains to be completed after SBA and Ex-Im Bank have paid the Lender on the joint purchase request, Ex-Im Bank, SBA, and the Lender will share all proceeds recovered in connection with the Co-Guaranteed loan, less reasonable costs of collection and any amounts due the Lender, on a pro rata basis. The Lender must pay SBA and Ex-Im Bank their respective shares of the recoveries or payments separately. To the extent that SBA or Ex-Im Bank receives any recoveries or payments directly, that agency will transmit promptly to the other agency and the Lender their respective pro rata shares of such recoveries or payments.

EXPENSES

SBA, Ex-Im Bank and the Lender will share all unreimbursed reasonable collection, liquidation or litigation expenses in connection with a Co-Guaranteed loan on a pro rata basis. SBA will have the sole discretion to approve such expenses. SBA will provide Ex-Im Bank with notice of the expenses along with payment instructions concurrently with SBA's approval of such expenses. Lender will not have any recourse against one agency for the other agency's share of unreimbursed expenses.

B. FUNDING THE CO-GUARANTEED LOAN

1. LSA001

1. Answer yes in the field "EXPORT-IMPORT: Y/N. A Y should never be entered here unless the loan is an SBA /Ex-Im Co-Guaranteed loan.
2. In the "Appropriation" field an "N" should be entered on all SBA/Ex-Im Co-Guarantee loans. Other indicators are not allowed on these type loans.
3. The "3rd PARTY ID NUM:" field must be left blank. Ex-Im Bank is a government agency, not a Lender.
4. In the "3rd PARTY AMT:" field, enter the amount to be **guaranteed** by Ex-Im Bank.
5. Enter the Home Office Code in the field titled "For EWCP loans enter the home office code here:""

LSA005

1. If the amount approved has been changed during processing, the "3rd PARTY AMT:" changes; you must re-enter the corrected 3rd party amount.

LSA010

1. The subprogram code for SBA/Ex-Im Co-Guaranteed loans is 1034. This subprogram code is automatically entered into the “SUBPRG CD:” field when a “Y” has been entered on the LSA010 field titled “EXPORT-IMPORT: Y/N”. Please note that the subprogram code for regular EWCP is 1013.
2. Enter an “A” in the field titled “SpC Prg CD”. All 1013 loans are made to companies that export. This field identifies an exporting company and insures that the Home District Office gets “goal” credit for an export loan.
3. Most 1013 loans will be revolving lines of credit. Answer the field titled “revol lin cre:” appropriately.

Any questions regarding this notice may be referred to Deborah Conrad at (410) 962-4582 or you may e-mail her at dconrad@mail.doc.gov. In addition, any questions regarding the secondary market sales of Co-Guaranteed loans should be referred to James Hammersley at 202-205-7505.

James Rivera
Associate Administrator
for Financial Assistance

Manuel Rosales
Associate Administrator
for International Trade

**MEMORANDUM OF UNDERSTANDING
BETWEEN
U.S. SMALL BUSINESS ADMINISTRATION AND
EXPORT-IMPORT BANK OF THE UNITED STATES**

I. Purpose

The purpose of this Memorandum of Understanding (“MOU”) between the U.S. Small Business Administration (“SBA”) and the Export-Import Bank of the United States (“Ex-Im Bank”) is to establish a Co-Guarantee program for export working capital loans extended by financial institutions to small business concerns engaged in exporting (“small business exporters”).

II. Background

Under the authority of Section 7(a) of the Small Business Act (15 USC 636(a)), as amended, SBA may guarantee export working capital loans extended by financial institutions to small business concerns. Likewise, Section 206 of the Bank Export Services Act (12 USC 635a-4) authorizes Ex-Im Bank to provide guarantees for loans extended by financial institutions to export trading companies and other exporters. In order to harmonize the loan programs, provide more effective and efficient assistance to small business exporters, and foster additional U.S. exports, SBA and Ex-Im Bank agree to establish a Co-Guarantee program for export working capital loans.

III. Scope

A. Co-Guarantee. SBA and Ex-Im Bank will severally Co-Guarantee eligible export working capital loans (“EWCP Loan(s)”) extended by financial institutions (“Lender(s)”) to small business exporters, in accordance with the terms and conditions set forth in this MOU.

B. Gross Loan Amount. The gross loan amount of each Co-Guaranteed EWCP Loan will not exceed the limit established from time to time by SBA, and will not under any circumstance exceed SBA’s statutory gross loan amount limit of \$2,000,000 set forth in Section 7(a)(3) of the Small Business Act (15 USC 636(a)(3)), as amended from time to time.

C. Maximum SBA Guaranteed Amount and Percentage. Pursuant to Sections 7(a)(2)(D) and 7(a)(3) of the Small Business Act (15 USC 636(a)(2)(D) and 636(a)(3)), as amended from time to time, SBA must not guarantee more than 90% of the gross amount of any one EWCP Loan, and not more than the statutory maximum guarantee authority amount for loans to any single borrower and its affiliates, as defined by SBA. SBA’s statutory maximum guarantee authority amount is \$1,500,000 as of the date of this MOU.

D. Aggregate Co-Guaranteed Amount For Each EWCP Loan. The aggregate Co-Guaranteed amount for any one EWCP Loan will not exceed 90% of the gross loan amount of that EWCP Loan. The Lender must retain for its sole Un-guaranteed risk at least 10% of the gross loan amount (“Lender Participation”), and the Lender Participation can be more than 10%.

E. Amount of Ex-Im Bank Co-Guarantee for Each EWCP Loan. The amount of Ex-Im Bank’s Co-Guarantee for each EWCP Loan will be equal to the gross loan amount (which cannot exceed SBA’s established maximum gross loan amount), minus SBA’s statutory maximum guarantee authority amount, minus the Lender Participation, but in no event greater than 50% of the aggregate Co-Guaranteed

amount of the EWCP Loan. Ex-Im Bank will not Co-Guarantee an EWCP Loan unless SBA has agreed to provide a Co-Guarantee for its statutory maximum guarantee authority amount in effect at the time of its approval of the EWCP Loan.

F. *Maximum Aggregate Loan Amounts.* The maximum aggregate amount of Ex-Im Bank's Co-Guarantees under this MOU will not exceed \$45,000,000 and the maximum aggregate gross loan amount under this MOU will not exceed \$100,000,000.

G. *SBA and Ex-Im Bank Pro Rata Share.* SBA and Ex-Im Bank's pro rata share of each Co-Guaranteed EWCP Loan will be determined by dividing each party's respective Co-Guarantee amount by the gross loan amount.

H. *Eligible Uses of Proceeds.*

In order to be an eligible EWCP Loan, the loan's proceeds must be used for one or more of the following export-related purposes, and no other purpose:

- (a) To acquire inventory for export or to be used to manufacture goods for export;
- (b) To pay the manufacturing costs of goods for export;
- (c) To purchase goods or services for export;
- (d) To support standby letters of credit related to export transactions;
- (e) For pre-shipment working capital directly related to export orders; or
- (f) For post-shipment foreign accounts receivable financing.

The EWCP Loan proceeds may in no case be used for the following purposes without express written consent of the SBA and Ex-Im Bank:

- (a) To support the export of any item whose cost consists of less than fifty percent (50%) U.S. content. If the cost of any item consists of at least 50% U.S. content, then the entire cost of that item may be eligible for financing, provided that the non-U.S. content portion is incorporated into the items in the United States. Products and services must be shipped from the U.S. Products must have at least 50% U.S. content. This means that at least one-half of the value of the products, exclusive of price mark-up, is comprised of value added by labor or material exclusively of U.S. origin. Services must be performed by U.S.-based personnel or by U.S. personnel temporarily assigned in the host country. These services may be performed in the United States or in the buyer's country;
- (b) To support the export sale of any item where the terms of sale are not in compliance with the **Country Limitation Schedule (CLS)**. The CLS means the schedule published from time-to-time by Ex-Im Bank and available at http://www.exim.gov/country/country_limits.html. The CLS indicates (via an "X" mark) those countries where Ex-Im Bank is "off cover" and indicates for those countries where Ex-Im Bank is "on cover" (i.e., countries where the CLS does not present an "X" mark) the acceptable terms of sale. For instance, in some countries the CLS may show that Ex-Im Bank is "on cover" but that export-related accounts receivable must be supported by an irrevocable letter of credit. For purposes of this MOU, the relevant sections would be marked "Up to 1 year" under the headings "Public Sector" and "Private Sector". "Public sector" is defined as including those obligors or guarantors which are at least 50% owned, directly or indirectly, by the government. In addition to compliance of the export terms of sale with the CLS, the proceeds may not be used to support an export sale if the small business exporter has knowledge that the export will be re-exported to a country where Ex-Im Bank is legally prohibited from doing business (a country where the CLS presents Note 7 on the CLS);
- (c) To support the export of any Defense Articles or Defense Services. For purposes of this MOU, the following will be considered Defense Articles or Defense Services: (i) any items sold to military

organizations, police forces or other security services, (ii) any items designed primarily for military use; (iii) any items with dual military and civilian use;

- (d) To support the export of technology, fuel, equipment, materials, or goods and services to be used in the construction, alteration, operation or maintenance of nuclear power, enrichment, reprocessing, research or heavy water production facilities;
- (e) To support the small business exporter's domestic sales;
- (f) To acquire fixed assets or capital goods for use in the small business exporter's business;
- (g) To acquire, equip, or rent commercial space overseas;
- (h) To serve as a Warranty Letter of Credit; or
- (i) To repay pre-existing debt or future indebtedness of the small business exporter (however, refinancing of an existing SBA export working capital loan line of credit is allowed).

SBA Form CAP-1050 (Semi-Annual Funds Lender's Disbursement Report Settlement Sheet) or the Lender equivalent, if applicable, must reflect that the Lender has complied with all of the foregoing requirements in disbursing the EWCP Loan proceeds.

- I. **Procedures.** Lenders must comply with all SBA statutes, regulations, policies and procedures ("SBA Rules") and the Eligible Uses of Proceeds set forth above in the making, originating, servicing and liquidation of EWCP Loans made pursuant to this MOU. The parties agree and acknowledge that SBA Rules and the Eligible Uses of Proceeds shall apply to the Lender Participation portion of any EWCP Loan made under this MOU. Except as provided in this MOU, neither party is responsible for determining whether a loan complies with the other party's enabling statutes, regulations, policies or procedures.
- J. **Documents.** Lenders must use the required SBA forms to close, disburse, service and liquidate each loan made under this MOU.
- K. **Collateral.** The parties agree that a loan guaranteed pursuant to this MOU shall be secured under SBA Rules.

IV. Responsibilities

A. Loan Application, Processing and Evaluation.

1. SBA Approval. A small business exporter seeking an EWCP Loan must apply to a Lender that is a participant in SBA's 7(a) loan program. The Lender then must submit a completed EIB-SBA Form 84-1 (Joint Application for Working Capital Guarantee) to the SBA Senior International Credit Officer serving the geographic area in which the small business exporter's headquarters is located, or such other loan processor or location as determined by SBA. SBA will evaluate and process the application in accordance with SBA Rules, including the determination of creditworthiness and reasonable assurance of repayment of the EWCP Loan. EWCP Loan applications submitted to SBA under a Lender's delegated loan processing authority will not be eligible for an Ex-Im Bank Co-Guarantee under this MOU.

2. Ex-Im Bank Approval. If, after its evaluation of the EWCP Loan application, SBA approves the EWCP Loan, and SBA determines that the loan meets the requirements under this MOU for a possible

Co-Guarantee from Ex-Im Bank, SBA then will submit to the Ex-Im Bank Business Credit Point of Contact ("Ex-Im Bank BC POC")(listed in section V.C. of this MOU) the following documents (taken together the "EWCP Loan Application Package"):

- (a) The Application and Co-Guarantee Approval Request (Attachment A, incorporated herein by reference), signed by an authorized representative of SBA;
- (b) The Loan Authorization;
- (c) The SBA/Ex-Im Bank Co-Guarantee Addendum (Attachment B, incorporated herein by reference); and
- (d) A copy of the SBA-prepared credit memorandum recommending SBA approval of the EWCP Loan.

SBA will transmit the EWCP Loan Application Package to the Ex-Im Bank BC POC by mail, overnight mail, or facsimile. SBA will retain the original underlying documentation. Ex-Im Bank may, at any time, consult with SBA with respect to any EWCP Loan submitted for Ex-Im Bank's approval and Co-Guarantee.

Within seven (7) business days of receipt of the EWCP Loan Application Package, the Ex-Im Bank BC POC will advise the SBA Senior International Credit Officer or other SBA loan processor identified in the EWCP Loan Application Package of Ex-Im Bank's decision on the EWCP Loan application. If Ex-Im Bank agrees to Co-Guarantee the EWCP Loan, the Ex-Im Bank BC POC will submit to the SBA Senior International Credit Officer or other SBA loan processor identified in the EWCP Loan Application Package, via mail, overnight mail or facsimile the following:

- (a) The Application and Co-Guarantee Approval Request signed by an authorized representative of Ex-Im Bank; and
- (b) The SBA/Ex-Im Bank Co-Guarantee Addendum, signed by an authorized representative of Ex-Im Bank.

If Ex-Im Bank chooses to Co-Guarantee the EWCP Loan in any amount or percentage less than the SBA recommended Co-Guarantee amount or make any modifications to the Loan Authorization, Ex-Im Bank shall advise the SBA Senior International Credit Officer or other SBA loan processor identified in the EWCP Loan Application Package within seven (7) business days of receipt of the EWCP Loan Application Package, or sooner if possible, by e-mail or facsimile. Both agencies will work together on any modifications to the Loan Authorization. If agreement is reached, the SBA will send a new version of Loan Authorization to the Ex-Im BC POC to replace the original version.

3. Fees. The Lender will pay SBA the fees required under the SBA Rules. Lender shall also pay Ex-Im Bank the Ex-Im Bank Co-Guarantee Fee required by the SBA/Ex-Im Bank Co-Guarantee Addendum. The Ex-Im Bank Co-Guarantee will not be effective unless and until the Ex-Im Co-Guarantee Fee has been received in full. Ex-Im Bank and SBA each reserve the right to change their respective fees at any time, and each party will notify the other in writing of any changes in its fees. Neither party to this MOU will collect fees due to the other party. It will be Lender's responsibility to forward the correct fees to the appropriate party.

4. Cancellation of Loan. In the event that SBA cancels the EWCP Loan, SBA will notify Ex-Im Bank in writing.

B. Loan Servicing and Liquidation/Reporting.

1. Servicing. Lenders will service all EWCP Loans made under this MOU, in accordance with SBA Rules. SBA will be responsible for oversight of Lender servicing, and SBA will have the sole discretion to

approve such actions, if required by SBA Rules. Ex-Im Bank agrees to be bound by SBA decisions regarding servicing oversight. If the SBA Rules require SBA approval of an action, SBA will provide Ex-Im Bank with notice of the servicing action concurrently with SBA approval.

2. Modification of Loans. The Lender and SBA can modify terms and conditions of an EWCP Loan made under this MOU only pursuant to SBA Rules.

3. Assignment. The Lender must obtain the prior written consent of SBA to any assignment of the Lender's rights under the SBA/Ex-Im Bank Co-Guarantees and SBA shall notify the Ex-Im AMD POC promptly of any such assignment. The SBA shall only consent to such assignments to SBA participating lenders.

4. Notice of Adverse Change/Default. Each party shall notify the other in writing promptly (preferably within ten (10) business days) after receipt by that party of information pertaining to any material adverse change in the financial or other condition of a small business exporter that will receive or has received an EWCP Loan or default by a small business exporter under an EWCP Loan.

5. Liquidation/Litigation. Lenders will liquidate (and litigate, if necessary) all EWCP Loans made pursuant to this MOU, in accordance with SBA Rules. SBA will be responsible for oversight of Lender liquidation and litigation. SBA will have the sole discretion to approve such actions, if required by SBA Rules. Ex-Im Bank agrees to be bound by SBA decisions regarding liquidation/litigation oversight. If SBA Rules require SBA approval of an action, SBA will provide Ex-Im Bank with notice of the liquidation/litigation action concurrently with SBA approval. To the extent that any liquidation actions can be taken after Lender's completion of liquidation (e.g., IRS offset, referral to Treasury for collection, etc.), SBA will have the exclusive right to pursue collection of all amounts due itself and Ex-Im Bank under the EWCP Loan.

6. Purchase Requests. The Lender shall be instructed that any and all demands by Lender that SBA and Ex-Im Bank honor their respective Co-Guarantees of an EWCP Loan ("Purchase Request") be directed solely to the SBA according to SBA Rules. After SBA has examined all purchase documentation, it will determine in its sole discretion for its own behalf and on behalf of Ex-Im Bank whether or not SBA and Ex-Im Bank will honor the Lender's joint demand for payment under the SBA and Ex-Im Bank Co-Guarantees in accordance with SBA Rules. With respect to any Purchase Request, SBA shall make a single determination as to whether or not guaranty purchase is appropriate. In no case may SBA come to a different determination for each Co-Guarantee for the same EWCP Loan with respect to a Purchase Request. Ex-Im Bank hereby agrees to be bound by SBA's decision with respect to any Purchase Requests by a Lender, and holds SBA harmless for such determinations to the extent of Ex-Im Bank's pro rata share.

At least ten (10) business days prior to the expected payment date to a Lender in respect of honoring a Purchase Request, SBA shall transmit via e-mail or facsimile to the Ex-Im Bank AMD Point of Contact (Ex-Im AMD POC) (as listed in section V.C. of this MOU) the following:

- (a) Lender's joint demand for purchase;
- (b) SBA's purchase letter to Lender;
- (c) SBA's Guaranty Purchase Loan System printout; and
- (d) Wiring instructions for the Lender.

SBA and Ex-Im Bank will each pay the Lender directly on the Purchase Request. Ex-Im Bank will notify the SBA POC after Ex-Im Bank pays the Lender on the Purchase Request. Within ten (10) business days of receipt of Ex-Im Bank's notice, SBA will transmit to the Ex-Im Bank AMD POC a Certificate of Interest (SBA Form 152) reflecting Ex-Im's pro rata share of the EWCP Loan. The Lender will have no

recourse against SBA or Ex-Im Bank for the other party's respective guaranteed share of the EWCP Loan.

7. Recoveries. If any liquidation/litigation remains to be completed after SBA and Ex-Im Bank have paid the Lender on the Purchase Request, Ex-Im Bank, SBA and Lender will share all proceeds recovered in connection with the EWCP Loan, less reasonable costs of collection and any amounts due the Lender that made the EWCP loan, on a pro rata basis. Lenders must pay SBA and Ex-Im Bank their respective shares of the proceeds separately. To the extent that SBA or Ex-Im Bank receives any recoveries or payments directly, that party will transmit promptly to the other party and the Lender their respective pro rata shares of such recoveries or payments.

8. Expenses. SBA, Ex-Im Bank and the Lender will share all unreimbursed reasonable collection, liquidation or litigation expenses in connection with an EWCP Loan on a pro rata basis. SBA will have the sole discretion to approve such expenses, and Ex-Im Bank agrees to be bound by SBA's determination of what expenses incurred are reasonable and necessary under SBA Rules. SBA will provide the Ex-Im AMD POC with notice of the expenses along with payment instructions concurrently with SBA's approval of such expenses. Ex-Im Bank will pay to the Lender Ex-Im Bank's share of expenses in accordance with SBA's instructions within ten (10) business days, after receipt of the foregoing information from SBA. Lender will not have any recourse against one agency for the other agency's share of unreimbursed expenses.

9. Periodic Reporting. SBA shall provide Ex-Im Bank with periodic reports, no less frequently than quarterly, on the status of all Co-Guaranteed EWCP Loans. Such reporting shall include a listing of each loan, the name of the lender, the name of the borrower, the loan amount, the amount of the SBA Co-Guarantee, the amount of the Ex-Im Bank Co-Guarantee, the outstanding balance and any payment defaults.

V. Miscellaneous

A. Continuing Exchange. SBA and Ex-Im Bank agree to use their best efforts in the implementation of this MOU and to consult on a continuing basis with respect to the terms and conditions of and procedures for Co-Guarantees of EWCP Loans.

B. Modification. SBA and Ex-Im Bank may negotiate modifications to this MOU to clarify, expand or revise its terms. Any party may request negotiations to effect changes to this MOU. This MOU may be amended or modified only in writing executed by both parties.

C. Points of Contact. The respective Points-of-Contact (POC) for this MOU will be the following:

For **Ex-Im Bank**:

Ex-Im Bank Business Credit Point-of-Contact ("Ex-Im BC POC")

Pam S. Bowers

Director

Business Credit Division

The Export-Import Bank of the United States

811 Vermont Avenue, N.W.

Washington, DC 20571

Phone: (202) 565-3792 Fax: (202) 565-3793

E-Mail: pam.bowers@exim.gov

Ex-Im Bank Asset Management Division Point-of-Contact (“Ex-Im AMD POC”)

Richard D. Brackley
Managing Director, Claims & Recoveries
Asset Management Division
The Export-Import Bank of the United States
811 Vermont Avenue, N.W.
Washington, DC 20571
Phone: (202) 565-3604 Fax: (202) 565-3625
E-Mail: Richard.brackley@exim.gov

For **SBA**:

Manuel Rosales
Associate Administrator for Office of International Trade
Office of International Trade
U.S. Small Business Administration
409 Third Street, S.W.
Washington, D.C. 20416
Phone: (202) 205-6725 Fax: (202) 205-7272
E-Mail: Manuel.Rosales@sba.gov

The POCs will facilitate communication between the two parties as necessary. All notices required under this MOU must be delivered to the respective POC.

D. Termination. SBA or Ex-Im Bank may terminate this MOU on thirty (30) days written notice to the other. Termination will have no effect on the obligations of either SBA or Ex-Im Bank with respect to all loans approved prior to termination.

E. Assignment. Except as provided herein, neither SBA nor Ex-Im Bank will assign its respective rights, duties, responsibilities or obligations under this MOU without the prior written consent of the other party.

F. Term of MOU. This MOU will take effect at the time of execution and will remain in effect for two years. Unless the MOU is renewed, no Co-Guarantees may be approved after the end of the two-year period. The parties may, after expiration of this MOU, agree in writing to renew the MOU with the same or modified terms and conditions. Expiration of this MOU will have no effect on the obligations of either SBA or Ex-Im Bank with respect to all loans approved prior to expiration.

G. No Third Party Beneficiary. The parties acknowledge that this MOU is intended to benefit only SBA and Ex-Im Bank and their respective successors and permitted assigns, and no other party is entitled to enforce the obligations of this MOU.

H. Applicability. This MOU applies to all EWCP Loans Co-Guaranteed by SBA and Ex-Im Bank after the date of this MOU.

I. Authority. The parties enter into this MOU under the authority of Section 5(a) of the Small Business Act (15 U.S.C. Section 634(a)), as amended, and Sections 2(a)(1) and 2(b)(1)(E)(viii) of the Charter of the Export-Import Bank of the United States, as amended (12 U.S.C. Sections 635(a)(1) and 635(b)(1)(E)(viii)).

VI. Signatures

Executed on _____ 4/29 _____ 2004:

U.S. Small Business Administration

Export-Import Bank of the United States

By: _____

David A. Javdan
General Counsel

By: _____

Phillip Merrill
President and Chairman

**APPLICATION AND APPROVAL OF CO-GUARANTEE
OF EXPORT WORKING CAPITAL LOAN**

Date: _____

To: Export-Import Bank of the United States ("EX-IM BANK")
811 Vermont Avenue, N.W.
Washington, D.C. 20571

Attention: _____

The U.S. Small Business Administration ("SBA") hereby submits the transaction described below and in the attachments hereto for your approval of a Co-Guarantee in accordance with the terms and conditions of the Memorandum of Understanding between SBA and EX-IM BANK.

1. **SBA Loan Number:** _____

Ex-Im Bank Loan Number: _____

2. **Amounts:**

a. Gross Loan Amount: _____

b. SBA Guarantee Amount: _____

c. SBA Guarantee Percentage: _____

d. EX-IM BANK Guarantee Amount: _____

e. EX-IM BANK Guarantee Percentage: _____

f. EX-IM BANK Facility Fee: _____

g. Lender Unguaranteed Amount: _____

h. Lender Unguaranteed Percentage: _____

3. **Lender (name of Lender, name of Lender contact, mailing address, telephone and fax number, e-mail address):**

4. **Borrower (name of Borrower, name of Borrower contact, mailing address, telephone and fax number, e-mail address):**

5. **Use of Proceeds (check as many as are applicable):**

- Acquisition of inventory for export or to be used to manufacture goods for export
- Payment of manufacturing costs of goods for export
- Purchase of goods or services for export
- Support of standby letters of credit related to export transactions
- Pre-shipment working capital
- Post-shipment foreign accounts receivable financing

6. **Guarantor(s) (name, address, percentage of ownership of Borrower):**

7. **Interest Rate and Other Fees.**

a. Lender's Interest Rate: _____

b. SBA's Guarantee Fee: _____

8. **Final Disbursement Date:** _____

9. **Maturity Date:** _____

10. **SBA Contact (name, mailing address, telephone and fax number, e-mail address):**

Signature of SBA Contact: _____
Date: _____

[Attach Draft SBA Authorization (SBA Guaranteed Loan for EWCP), Co-Guarantee Addendum, and SBA Credit Memorandum]

To: U.S. Small Business Administration

Ex-Im Bank has approved the foregoing transaction for Co-Guarantee under the terms and conditions of the Memorandum of Understanding between SBA and EX-IM BANK dated April 29, 2004. EX-IM BANK has reviewed the draft Loan Authorization and Co-Guarantee Addendum attached to this Application and Approval of Co-Guarantee, and has approved it. Attached hereto are the Loan Authorization and Co-Guarantee Addendum signed by a duly authorized representative of EX-IM BANK. EX-IM BANK agrees that SBA may sign the Loan Authorization on SBA's behalf and deliver the documents to the Lender, and that EX-IM BANK will Co-Guarantee this transaction in accordance with the terms of the Memorandum of Understanding between SBA and EX-IM BANK dated April 29, 2004.

EXPORT-IMPORT BANK OF THE UNITED STATES

By: _____ Date: _____
Name: _____
Title: _____

Attachment B

SBA/EX-IM BANK Co-Guarantee Addendum

SBA Loan No.: _____

EX-IM BANK Loan No.: _____

SBA Loan Name: _____

Lender: _____

Gross Loan Amount: _____

SBA Guarantee Percentage: _____

EX-IM BANK Guarantee Percentage: _____

This SBA/EX-IM BANK Co-Guarantee Addendum (“Addendum”), by and among U.S. Small Business Administration (“SBA”), Export-Import Bank of the United States (“EX-IM BANK”) and the Lender named above, supplements and amends the foregoing SBA Authorization (SBA Guaranteed Loan for EWCP) (“Authorization”).

The Authorization is amended and/or supplemented as follows:

1. Ex-Im Bank approves, under Section 206 of the Bank Export Services Act, as amended, Lender’s application for Ex-Im Bank to guarantee the percentage stated above of the Loan in the amount stated above.
2. Part A. is amended as follows:

Lender shall pay Ex-Im Bank a Co-Guarantee Fee in the amount of \$_____ within 10 business days of the final approval of this EWCP Loan by both the SBA and Ex-Im Bank, but in no event later than the initial disbursement to the Borrower. Ex-Im Bank’s Co-Guarantee of this transaction is not effective unless and until such Fee is received in full by Ex-Im Bank in a timely manner. Payments by the Lender of the Ex-Im Bank Co-Guarantee Fee with respect to any Export Working Capital Loan are to be made in U.S. dollars either:

(i) by wire transfer of immediately available funds to the Federal Reserve Bank of New York in New York City for the credit of Ex-Im Bank’s account at the U.S. Treasury Department as identified below:

U.S. Treasury Department

021030004
TREAS NYC/CTR/
BNF=A/C-4984 OBI=
EXPORT-IMPORT BANK
REFERENCE: [LENDER NAME][BORROWER NAME]
ON EX-IM BANK GUAR. NO. _____[EX-IM BANK LOAN
GUARANTEE NUMBER]
FROM _____

Which shall be deemed paid as of date of receipt of such funds in such account or

(ii) by cashier's check sent via U.S. certified mail, return receipt requested, payable to the order of the Export-Import Bank of the United States, which shall be deemed paid as of date of receipt of such check by Ex-Im Bank's Office of the Treasurer-Controller at 811 Vermont Avenue, N.W., Washington, D.C. 20571, USA.

Lender is responsible for forwarding the correct fee to the appropriate party.

3. Part C.3. is amended as follows:

Retain all Loan closing documents. Lender must submit these documents, along with other required documents, to SBA for review if Lender requests SBA and Ex-Im Bank to honor their guarantees on the Loan, or to either SBA or Ex-Im Bank at any time SBA or Ex-Im Bank request the documents for review.

4. Part G. is amended as follows:

Prior to disbursement, the Lender must confirm that the Borrower's use of the EWCP Loan proceeds complies with the following Ex-Im Bank disbursement requirements:

The EWCP Loan proceeds may in no case be used for the following purposes without express written consent of the SBA and Ex-Im Bank:

- (a) To support the export of any item whose cost consists of less than fifty percent (50%) U.S. content. If the cost of any item consists of at least 50% U.S. content, then the entire cost of that item may be eligible for financing, provided that the non-U.S. content portion is incorporated into the items in the United States. Products and services must be shipped from the U.S. Products must have at least 50% U.S. content. This means that at least one-half of the value of the products, exclusive of price mark-up, is comprised of value added by labor or material exclusively of U.S. origin. Services must be performed by U.S.-based personnel or by U.S. personnel temporarily assigned

in the host country. These services may be performed in the United States or in the buyer's country;

- (b) To support the export sale of any item where the terms of sale are not in compliance with the **Country Limitation Schedule (CLS)**. The CLS means the schedule published from time-to-time by Ex-Im Bank and available at http://www.exim.gov/country/country_limits.html. The CLS indicates (via an “X” mark) those countries where Ex-Im Bank is “off cover” and indicates for those countries where Ex-Im Bank is “on cover” (i.e., countries where the CLS does not present an “X” mark) the acceptable terms of sale. For instance, in some countries the CLS may show that Ex-Im Bank is “on cover” but that export-related accounts receivable must be supported by an irrevocable letter of credit. For purposes of this Loan Authorization, the relevant sections would be marked “Up to 1 year” under the headings “Public Sector” and “Private Sector”. “Public sector” is defined as including those obligors or guarantors which are at least 50% owned, directly or indirectly, by the government. In addition to compliance of the export terms of sale with the CLS, the proceeds may not be used to support an export sale if the small business exporter has knowledge that the export will be re-exported to a country where Ex-Im Bank is legally prohibited from doing business (a country where the CLS presents Note 7 on the CLS);
- (c) To support the export of any Defense Articles or Defense Services. For purposes of this Loan Authorization, the following will be considered Defense Articles or Defense Services: (i) any items sold to military organizations, police forces or other security services, (ii) any items designed primarily for military use; (iii) any items with dual military and civilian use;
- (d) To support the export of technology, fuel, equipment, materials, or goods and services to be used in the construction, alteration, operation or maintenance of nuclear power, enrichment, reprocessing, research or heavy water production facilities;
- (e) To support the small business exporter’s domestic sales;
- (f) To acquire fixed assets or capital goods for use in the small business exporter’s business;
- (g) To acquire, equip, or rent commercial space overseas;
- (h) To serve as a Warranty Letter of Credit; or

- (i) To repay pre-existing debt or future indebtedness of the small business exporter (however, refinancing of an existing SBA export working capital loan line of credit is allowed).

SBA Form CAP-1050 (Semi-Annual Funds Lender's Disbursement Report Settlement Sheet) or the Lender equivalent, if applicable, must reflect that the Lender has complied with the foregoing Ex-Im Bank disbursement requirements in disbursing the EWCP Loan.

5. All rights and protections granted to SBA under the Authorization are also granted to Ex-Im Bank. All obligations of Lender or Borrower to SBA under the Authorization are also obligations of Lender or Borrower to Ex-Im Bank. All certifications Lender is required to obtain from the Borrower under the Authorization must be made for the benefit of both SBA and Ex-Im Bank.
6. Lender must comply with all SBA statutes, regulations, policies and procedures ("SBA Rules") and the Ex-Im Bank disbursement requirements set forth in paragraph 4 above in the making, originating, servicing and liquidation of this Loan. SBA rules and the Ex-Im Bank disbursement requirements set forth in paragraph 4 above shall apply to the entire Loan, including the unguaranteed portion.
7. Lender must use the required SBA forms to close, disburse, service and liquidate the Loan.
8. Lender will service this Loan in accordance with SBA Rules. SBA is responsible for oversight of Lender servicing, and SBA will have the sole discretion to approve such actions, if required by SBA Rules.
9. Lender can modify the terms and conditions of the Loan only pursuant to SBA Rules.
10. Lender must obtain the prior written consent of SBA to any assignment of the Lender's rights under this Authorization.
11. Lender will liquidate (and litigate, if necessary) the Loan in accordance with SBA Rules. SBA will be responsible for oversight of Lender liquidation and litigation. SBA will have the sole discretion to approve such actions, if required by SBA Rules.
12. Any and all demands by Lender that SBA and Ex-Im Bank honor their respective Co-Guarantees of the EWCP Loan ("Purchase Request") shall be made as a joint demand to SBA and Ex-Im Bank, but directed solely to SBA, according to SBA Rules. After SBA has examined all purchase documentation, SBA will determine in its sole discretion for its own behalf and on behalf of Ex-Im Bank whether or not SBA and Ex-Im Bank will honor the

Lender's joint demand for payment under the SBA and Ex-Im Bank Co-Guarantees, in accordance with SBA Rules. Ex-Im Bank agrees to be bound by SBA's decision with respect to the Purchase Request. Subsequent to SBA's determination on the Purchase Request, SBA will pay the guaranteed share for which SBA is obligated directly to the Lender. SBA will also advise Ex-Im Bank to pay to the Lender the guaranteed share for which Ex-Im Bank is obligated. Within ten (10) business days of notice from SBA, Ex-Im Bank will pay directly to the Lender the guaranteed share for which Ex-Im Bank is obligated. Lender has no recourse against SBA or Ex-Im Bank for the other party's respective guaranteed share of the Loan.

13. If any liquidation/litigation remains to be completed after SBA and Ex-Im Bank have purchased their respective interests in the guaranteed portions of the Loan, SBA and Ex-Im Bank will share all proceeds recovered in connection with the Loan, less reasonable costs of collection and any amounts due the Lender, on a pro rata basis. Lender must pay SBA and Ex-Im Bank their respective shares of the proceeds separately. When the Lender remits Ex-Im Bank's share of the proceeds to Ex-Im Bank, the Lender shall include a copy of the remittance documentation forwarded to SBA for reconciliation purposes. All such remittances to Ex-Im Bank shall be sent to the following:

Richard D. Brackley
Managing Director, Claims & Recoveries
Asset Management Division
The Export-Import Bank of the United States
811 Vermont Avenue, N.W.
Washington, DC 20571
Phone: (202) 565-3604 Fax: (202) 565-3625
E-Mail: Richard.brackley@exim.gov

[CONTINUED ON NEXT PAGE]

14. SBA, Ex-Im Bank and the Lender will share all unreimbursed reasonable collection, liquidation and litigation expenses in connection with the Loan on a pro rata basis. SBA will have the sole discretion to approve such expenses, and Ex-Im Bank will be bound by SBA's determination of what expenses incurred are reasonable and necessary. Ex-Im Bank will pay to Lender its share of expenses, after approval of the same by SBA. Lender has no recourse against SBA or Ex-Im Bank for the other party's respective share of unreimbursed expenses.

ADMINISTRATOR
SMALL BUSINESS ADMINISTRATION

By: _____ Date: _____
Name: _____
Title: _____

EXPORT-IMPORT BANK OF THE UNITED STATES

By: _____ Date: _____
Name: _____
Title: _____

LENDER: _____ [insert name of lender]

By: _____ Date: _____
Name: _____
Title: _____