UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of final action regarding amendments to federal sentencing guidelines effective November 1, 2005.

SUMMARY: On April 29, 2005, the Commission submitted to Congress amendments to the federal sentencing guidelines. (See 70 FR 24852, May 11, 2005). The Commission has made technical and conforming amendments to commentary provisions related to those amendments. The Commission hereby gives notice of these commentary amendments.

DATES: The Commission has specified an effective date of November 1, 2005, for the amendments set forth in this notice.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502–4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission, an independent commission in the judicial branch of the United States government, is authorized by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for federal courts. Section 994 also directs the Commission to review and revise periodically promulgated guidelines and authorizes it to submit guideline amendments to Congress not later than the first day of May each year. See 28 U.S.C. 994(o), (p). Absent an affirmative disapproval by the Congress within 180 days after the Commission submits its amendments, the amendments become effective on the date specified by the Commission (typically November 1 of the same calendar year). 28 U.S.C. 994(p).

Unlike amendments made to sentencing guidelines, amendments to commentary may be made at any time and are not subject to congressional review. To the extent practicable, the Commission endeavors to include amendments to commentary in any submission of guideline amendments to Congress. Occasionally, however, the Commission determines that technical and conforming changes to commentary are necessary in order to execute correctly the amendments submitted to Congress. This notice sets forth technical and conforming amendments to commentary related to the amendments submitted to Congress on April 29, 2005, that will become effective on November 1, 2005.

Authority: USSC Rules of Practice and Procedure 4.1.

Ricardo H. Hinojosa,
Chair.

1. Amendment

The Commentary to § 2J1.6 captioned ''Application Notes'' is amended in Note 3 in the second paragraph in the fourth sentence by striking ''*See* § 3D1.1(b)'' and inserting ''*See* § 3D1.1(b)(1)''.

The Commentary to § 2K2.1 captioned ''Statutory Provisions'', as amended by Amendment 3 submitted to Congress on April 29, 2005, (70 FR 24855.; USSG App. C (amendment 677)), is amended by striking ''(e)–(h), (j)–(n)'' and inserting ''(e)–(i), (k)–(o)''.

The Commentary to § 2P1.2 captioned ''Application Notes'' is amended in Note 2 in the fourth sentence by striking ''*See* § 3D1.1(b)'' and inserting ''*See* § 3D1.1(b)(1)''.

The Commentary to § 3D1.1 captioned ''Application Note'' is amended in Note 1 in the first paragraph by striking ''Subsection (b)'' and inserting ''Subsection (b)(1)''; in the fourth sentence by striking ''subsection (b)'' and inserting ''subsection (b)(1)''; and in the second paragraph by striking ''subsection (b)'' and inserting ''subsection (b)(1)''.

The Commentary to § 3D1.2 captioned ''Application Notes'' is amended in Note 1 by striking ''*See* § 3D1.1(b)'' and inserting ''*See* § 3D1.1(b)(1)''.

The Commentary to § 5G1.2 captioned ''Application Notes'', as amended by Amendment 1 submitted to Congress on April 29, 2005 (70 FR 24852; USSG App. C (amendment 675)), is amended in Note 2 in subdivision (A) by striking ''(A) specifies'' and inserting ''(i) specifies'' and by striking ''(B) requires'' and inserting ''(ii) requires''; and in subdivision (B)(ii) by striking ''(Multiple Counts)'' and inserting ''(Groups of Closely Related Counts)''.

Appendix A (Statutory Index), as amended by Amendment 3 submitted to Congress on April 29, 2005, (70 FR 24855; USSG App. C (amendment 677)), is amended by striking the following:

''18 U.S.C. 924(i)(1) 2A1.1, 2A1.2
18 U.S.C. 924(i)(2) 2A1.3, 2A1.4
18 U.S.C. 924(j)–(n) 2K2.1''.

and inserting the following:

''18 U.S.C. 924(i) 2K2.1
18 U.S.C. 924(j)(1) 2A1.1, 2A1.2
18 U.S.C. 924(j)(2) 2A1.3, 2A1.4
18 U.S.C. 924(k)–(o) 2K2.1''.

Reason for Amendment: This amendment makes various technical and conforming changes in order to implement more fully amendments submitted to Congress on April 29, 2005 (70 FR 24852–24856).

[FR Doc. 05–19324 Filed 9–27–05; 8:45 am]
BILLING CODE 2210–01–P

SMALL BUSINESS ADMINISTRATION

Surety Bond Guarantee Program Fees

AGENCY: Small Business Administration (SBA).

ACTION: Notice of fee increase.

SUMMARY: This notice increases the guarantee fee charged on each guaranteed bond (other than a bid bond) and payable by surety companies participating in SBA's Surety Bond Guarantee (SBG) Program from 20% of the bond premium to 32% of the bond premium, effective April 3, 2006. SBA has determined that the fee increase is necessary to supplement reserves in the SBG Program's revolving fund to better offset unfunded program liabilities resulting from claims filed by sureties under SBA's guarantee. This notice also addresses comments received by SBA in response to the notice proposing the fee increase, which was published in the **Federal Register** on August 15, 2005.

DATES: This fee increase is effective on April 3, 2006.

FOR FURTHER INFORMATION CONTACT: Barbara Brannan, Special Assistant, Office of Surety Guarantees, (202) 205–6545; *Barbara.Brannan@sba.gov.*

SUPPLEMENTARY INFORMATION:

A. Background

On August 15, 2005, SBA published a notice in the **Federal Register** proposing to increase the guarantee fee payable by sureties participating in the SBG Program (Sureties) from the present 20% to 32% of the bond premium, effective October 1, 2005, and requested comments on the proposal (70 FR 47874). In response to SBA's notice and request for public comments, which had a 30-day public comment period, SBA received 38 written comments. The commenters included four industry associations (three letters, one signed jointly); three surety companies (each one currently participating in the SBG Program); 18 contractors (who have or had SBA guaranteed bonding through the SBG Program), 13 surety agents, and one Certified Public Accountant. Two commenters supported the fee increase. Thirty-six of the 38 commenters opposed the fee increase. The comments are addressed below.

B. Discussion of Public Comments

1. General Comments on Proposed Fee Increase

One commenter said that the fee increase is inconsistent with the Congressional declaration of policy for programs under the Small Business Investment Act of 1958, including the SBG Program, to stimulate and improve the economy by establishing assistance programs for small business which are to be ''carried out in such a manner as to insure maximum participation of private financing sources,'' 15 U.S.C. 661 (Section 661). The commenter said that the fee increase would discourage surety companies from participating in the SBG Program because it would not be economically viable or cost-effective, and several other commenters agreed.

Thirty-four of the commenters were concerned about the potentially negative impact that the fee increase would have on Sureties or small businesses. SBA received 23 comments opposing the fee increase because it may cause Sureties currently participating in the SBG Program to decrease their level of participation in it. One of the Sureties said that it would withdraw from the SBG Program completely if SBA increases the fee from the present 20% to 32% of the bond premium. Eleven commenters were concerned about the potentially negative impact that the fee increase would have on small business. Some commenters said that small contractors would ultimately bear the burden of the fee increase because Sureties would pass the cost on to them in the form of higher premium rates. Other commenters said that the fee increase would limit availability of bonds for small contractors based on assumptions that all Sureties would withdraw from the SBG Program and, consequently, the Program would no longer exist. Specific concerns were raised about the ability of 8(a), HUBZone, and service-disabled veteran-owned small businesses to secure bonding for contracts obtained through SBA certification as well as for those small contractors seeking contracts to rebuild the Gulf Coast areas damaged by Hurricane Katrina.

SBA has given due consideration to each comment and acknowledges the concerns expressed by Sureties, surety agents, small contractors, and the industry associations to which those parties belong. In response to those comments, however, SBA notes that its duty under Section 661 must be balanced with its explicit statutory obligation to administer the Program ''on a prudent and economically justifiable basis'' and its authority to establish fees for Sureties as SBA determines are reasonable and necessary, 15 U.S.C. 694b(h). SBA's duties and authorities must work in harmony. Although SBA has determined that the fee increase is necessary to supplement the current revolving fund reserves to better offset unfunded program liabilities, SBA only increased the fee the minimum amount necessary to operate the SBG Program ''on a prudent and economically justifiable basis'' to limit the negative impact on Sureties. In addition, SBA is considering procedural and policy changes to improve the Program to attract new surety companies to the SBG Program and to retain existing Sureties.

Furthermore, SBA recognizes that the fee increase may have some impact on small businesses, especially since Hurricane Katrina devastated the Gulf Coast. SBA notes that the notice proposing the fee increase was published in the **Federal Register** on August 15, 2005—two weeks before Hurricane Katrina struck the Gulf Coast. As a result of the disaster, SBA expects that there will be an increase in bond activity through the SBG Program in the next six months because surety bonds are essential for small businesses seeking contracts to rebuild the Gulf Coast after Hurricane Katrina. Although the fee increase remains necessary to better offset unfunded liabilities of the SBG Program, SBA believes that the expected increase in bond activity due to Hurricane Katrina justifies postponing the effective date of fee increase from October 1, 2005, as originally proposed, to April 3, 2006. The 6-month delay will permit SBA, Sureties, and small businesses to operate under the existing framework in the aftermath of Hurricane Katrina.

2. Suggested Improvements to SBG Program

Four of the commenters suggested specific operational and policy changes to the SBG Program that would streamline it, thus making the Program more attractive to new and existing Sureties. Specific changes suggested by the commenters include elimination of multiple applications requiring original signatures, expediting the application process, increasing the number of SBG personnel in the field, and providing Sureties with more flexibility to adjust premiums charged on guaranteed bonds.

SBA appreciates the comments from the industry on possible improvements to the SBG Program. SBA is considering a variety of program changes to encourage new surety companies to participate in the SBG Program, retain existing Sureties, and make the Program more beneficial for small contractors. SBA reaffirms its commitment to expanding availability of bonds for small contractors by maintaining SBG program operations and making Program improvements. SBA will continue to reassess the Program, including its operations and projected costs, and aim to make it more efficient and cost-effective.

(Authority: 13 CFR 115.32(c) and 115.66)

Michael W. Hager,

Associate Deputy Administrator, Office of Capital Access.

[FR Doc. 05–19359 Filed 9–27–05; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 5195]

Culturally Significant Objects Imported for Exhibition Determinations: ''Saint Peter and the Vatican: The Legacy of the Popes''

Summary: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Saint Peter and the Vatican: The Legacy of the Popes,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the exhibit objects at The Gallery at the Henry B. Gonzales Convention Center, San Antonio, TX from on or about October 15, 2005 to on or about January 8, 2006, The Milwaukee Public Museum from on or about February 4, 2006 to on or about May 7, 2006, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

For further information contact: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, Department of State, (telephone: 202 453–8048). The address