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CHAPTER 5. Bonds and Insurance

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5.1 Policy

The Authority may, on an individual or class of requirement basis, require bonds (bid, performance, labor and material payment, fidelity, or other type of bonding or any combination thereof) and insurance as deemed necessary to protect the interests of the Authority. The Authority shall require bonds on any federally funded construction project according to federal requirements.

5.2 Bid Bonds and Other Security

Bid bonds are required whenever a performance bond or a performance and payment bond is required; however, the Chief Contracting Officer may, prior to the bid opening/proposal due date, waive the requirement to obtain a bid bond when it is determined that a bid bond is not in the best interest of the Authority for a specific acquisition.

A bid bond securing multiple bids is acceptable for contracts for goods and services. Only separate bid bonds are acceptable for construction contracts.

5.3 Noncompliance with Bid Security Requirements

Noncompliance with a solicitation requirement for a bid bond in sealed bidding renders the bid non-responsive, and requires rejection of the bid. When conducting a procurement using competitive proposals and an award is to be made based on initial proposals without discussion, noncompliance with a solicitation requirement for a proposal security renders the proposal unacceptable.

5.4 Performance and Payment Security

All required bonds or alternative payment protection, including any necessary reinsurance agreements, must be received by the Authority before issuing a notice to proceed with the work or allowing work to start.

5.4.1 Federally Funded Construction Contracts with a Value Greater than $100,000

Bid performance and payment bonds are required for any federally funded construction contract exceeding $100,000.

5.4.2 Other Construction Contracts

Bid, performance and payment bonds are required for any non-federally funded construction contracts exceeding $100,000. Consideration may be given to accepting up to two of the following forms of security in lieu of a performance and payment bond:

1. An irrevocable letter of credit (ILC);
2. A tripartite escrow agreement;
3. Certificates of deposit;
4. United States Bonds or Notes; or
5. Certified or Cashier's Checks, Bank Drafts, Money Orders, or Currency.

5.4.3 Other than Construction Contracts

Performance and payment bonds should not normally be required for other than construction contracts; however, performance and payment bonds may be required for contracts exceeding the large procurement threshold ($100,000) when necessary to protect the Authority's interest. The amount of the bond may be the value of the contract or the amount that could be at risk.

A performance and payment bond should be considered when:

1. Authority property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material);
2. A contractor sells assets to or merges with another concern, and the Authority, after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable;

3. Progress payments are made substantially exceeding the value of end items delivered, such as when end item design or tooling is funded with progress payments; or

4. Additional performance bond protection is required because of an increase in contract price and the terms of the bond do not automatically increase the amount.

5.5 Security Bonds and Other Security

When bonds are required, the Authority shall obtain adequate security for bonds (including coinsurance and reinsurance agreements). Forms of security that the Contracting Officer may consider include:

1. Corporate or individual sureties licensed to provide bonds in the District of Columbia;
2. United States Bonds or Notes;
3. Certified or Cashier's Checks, Bank Drafts, Money Orders, or Currency; or
4. Irrevocable Letter of Credit (ILC).

5.6 Sureties

The Contracting Officer shall determine the acceptability of proposed sureties and shall ensure that the surety's pledged assets are sufficient to cover the bond obligation.

5.7 Insurance

Contractors are required by law to provide insurance for certain types of perils (e.g., workers' compensation). Insurance is mandatory also when the contractor is making use of Authority property, and the type of operation, circumstances of ownership, or condition of the contract makes insurance necessary for the protection of the Authority.

Authority solicitations and contracts shall specify the insurance requirements depending on the nature of work performed. When applicable, the Rolling Owner Controlled Insurance Program shall be included in Authority solicitations and contracts.

Contractor self-insurance programs may be approved when in the Authority's interest.