228.102  

Subpart 228.1—Bonds  

228.102 Performance and payment bonds for construction contracts.

228.102–1 General.  
The requirement for performance and payment bonds is waived for cost-reimbursement contracts. However, for cost-type contracts with fixed-price construction subcontracts over $30,000, require the prime contractor to obtain from each of its construction subcontractors performance and payment protections in favor of the prime contractor as follows:

1. For fixed-price construction subcontracts over $30,000, but not exceeding $150,000, payment protection sufficient to pay labor and material costs, using any of the alternatives listed at FAR 28.102–1(b)(1).

2. For fixed-price construction subcontracts over $100,000—
   (i) A payment bond sufficient to pay labor and material costs; and
   (ii) A performance bond in an equal amount if available at no additional cost.

228.105 Other types of bonds.  
Fidelity and forgery bonds generally are not required but are authorized for use when—
   (1) Necessary for the protection of the Government or the contractor; or
   (2) The investigative and claims services of a surety company are desired.

228.106 Administration.  

228.106–7 Withholding contract payments.  
(a) Withholding may be appropriate in other than construction contracts (see FAR 32.112–1(b)).

228.170 Solicitation provision.  
When a requirement for a performance bond or other security is included in a solicitation for dismantling, demolition, or removal of improvements (see FAR 37.300), use the provision at 252.228–7004, Bonds or Other Security. Set a period of time (normally ten days) for return of executed bonds.

Subpart 228.3—Insurance  

228.304 Risk-pooling arrangements.  
DoD has established the National Defense Projects Rating Plan, also known as the Special Casualty Insurance Rating Plan, as a risk-pooling arrangement to minimize the cost to the Government of purchasing the liability insurance listed in FAR 28.307–2. Use the plan in accordance with the procedures at PGI 228.304 when it provides the necessary coverage more advantageously than commercially available coverage.

(d) Once it has taken action to meet its obligations under the bond, the surety is entitled to any indemnification and identical standard of liability to which the contractor was entitled under the contract or applicable laws and regulations.

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228.105 Other types of bonds.  
Fidelity and forgery bonds generally are not required but are authorized for use when—
   (1) Necessary for the protection of the Government or the contractor; or
   (2) The investigative and claims services of a surety company are desired.

[70 FR 8538, Feb. 22, 2005]