Homeland Security Department

Authority: 41 U.S.C. 418b (a) and (b).

Source: 68 FR 67871, Dec. 4, 2003, unless otherwise noted.

Subpart 3028.1—Bonds and Other Financial Protections

3028.106 Administration.

3028.106–6 Furnishing information.

(b) The contracting officer shall, upon request, furnish the name and address of the prime contractor’s surety or sureties to employees, suppliers, and subcontractors having a contractual or employment relationship with prime contractors, subcontractors or suppliers. When furnishing surety information, the inquirer may also be informed that:

(1) Persons believing that they have legal remedies under the Miller Act are cautioned to consult their own legal advisor regarding the proper steps to take to obtain remedies.

(2) On construction contracts exceeding $2,000, if the contracting officer is informed (through routine compliance checking, a complaint, or a request for information) that a laborer, mechanic, apprentice, trainee, watchman, or guard employed by the contractor or subcontractor at any tier may have been paid wages less than those required by the applicable labor standards provisions of the contract, the contracting officer shall promptly initiate an investigation in accordance with (FAR) 48 CFR Subpart 22.4, irrespective of the employee’s rights under the Miller Act. When an employee’s request for information is involved, the contracting officer shall inform the inquirer that such investigation will be made. Such investigation is required pursuant to the provisions of the Davis-Bacon Act, Contract Work Hours and Safety Standards Act, and Copeland (Anti-Kickback) Act for assuring proper payment to such employees.

(c) Performance or payment bond(s) other than an annual bond shall not predate the contract to which it pertains.

(d) Bonds may be filed with the original contract to which they apply, or all bonds can be separately maintained and reviewed quarterly for validity. If separately maintained, each contract file shall cross-reference the applicable bonds.

3028.106–490 Contract clause (USCG).

For the U.S. Coast Guard, the contracting officer shall insert the USCG clause at (HSAR) 48 CFR 3052.228–90, Notification of Miller Act Payment Bond Protection (USCG), in solicitations and contracts, and shall require its first-tier subcontractors to insert the clause in all of their subcontracts, when payment bonds are required.

[71 FR 25771, May 2, 2006]