

not more than one year, interest shall be calculated from the date of taking at an annual rate equal to the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of taking.

(2) PERIOD OF MORE THAN ONE YEAR.—Where the period for which interest is owed is more than one year, interest for the first year shall be calculated in accordance with paragraph (1) and interest for each additional year shall be calculated on the amount by which the award of compensation is more than the deposit referred to in section 3114 of this title, plus accrued interest, at an annual rate equal to the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the beginning of each additional year.

(b) DISTRIBUTION OF NOTICE OF RATES.—The Director of the Administrative Office of the United States Courts shall distribute to all federal courts notice of the rates described in paragraphs (1) and (2) of subsection (a).

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1146.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Rows for 3116(a) and 3116(b).

§ 3117. Exclusion of certain property by stipulation of Attorney General

In any condemnation proceeding brought by or on behalf of the Federal Government, the Attorney General may stipulate or agree on behalf of the Government to exclude any part of the property, or any interest in the property, taken by or on behalf of the Government by a declaration of taking or otherwise.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1147.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row for 3117.

The words “that may have been, or may be” are omitted as unnecessary.

§ 3118. Right of taking as addition to existing rights

The right to take possession and title in advance of final judgment in condemnation proceedings as provided by section 3114 of this title is in addition to any right, power, or authority conferred by the laws of the United States or of a State, territory, or possession of the United States under which the proceeding may be conducted, and does not abrogate, limit, or modify that right, power, or authority.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1147.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row for 3118.

The words “State, territory, or possession of the United States” are substituted for “State or Territory” for consistency in the revised title and with other titles of the United States Code.

SUBCHAPTER III—BONDS

§ 3131. Bonds of contractors of public buildings or works

(a) DEFINITION.—In this subchapter, the term “contractor” means a person awarded a contract described in subsection (b).

(b) TYPE OF BONDS REQUIRED.—Before any contract of more than \$100,000 is awarded for the construction, alteration, or repair of any public building or public work of the Federal Government, a person must furnish to the Government the following bonds, which become binding when the contract is awarded:

(1) PERFORMANCE BOND.—A performance bond with a surety satisfactory to the officer awarding the contract, and in an amount the officer considers adequate, for the protection of the Government.

(2) PAYMENT BOND.—A payment bond with a surety satisfactory to the officer for the protection of all persons supplying labor and material in carrying out the work provided for in the contract for the use of each person. The amount of the payment bond shall equal the total amount payable by the terms of the contract unless the officer awarding the contract determines, in a writing supported by specific findings, that a payment bond in that amount is impractical, in which case the contracting officer shall set the amount of the payment bond. The amount of the payment bond shall not be less than the amount of the performance bond.

(c) COVERAGE FOR TAXES IN PERFORMANCE BOND.—

(1) IN GENERAL.—Every performance bond required under this section specifically shall provide coverage for taxes the Government imposes which are collected, deducted, or withheld from wages the contractor pays in carrying out the contract with respect to which the bond is furnished.

(2) NOTICE.—The Government shall give the surety on the bond written notice, with respect to any unpaid taxes attributable to any period, within 90 days after the date when the contractor files a return for the period, except that notice must be given no later than 180 days from the date when a return for the period was required to be filed under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(3) CIVIL ACTION.—The Government may not bring a civil action on the bond for the taxes—

(A) unless notice is given as provided in this subsection; and

(B) more than one year after the day on which notice is given.

(d) WAIVER OF BONDS FOR CONTRACTS PERFORMED IN FOREIGN COUNTRIES.—A contracting officer may waive the requirement of a performance bond and payment bond for work under a contract that is to be performed in a foreign country if the officer finds that it is impracticable for the contractor to furnish the bonds.

(e) AUTHORITY TO REQUIRE ADDITIONAL BONDS.—This section does not limit the authority of a contracting officer to require a performance bond or other security in addition to those, or in cases other than the cases, specified in subsection (b).

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1147; Pub. L. 109–284, § 6(8), Sept. 27, 2006, 120 Stat. 1213.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3131(a)	40:270a(a) (words before cl. (1) related to definition). 40:270d.	Aug. 24, 1935, ch. 642, §1(a)–(c), 49 Stat. 793; Pub. L. 95–585, Nov. 2, 1978, 92 Stat. 2484; Pub. L. 103–355, title IV, §4104(b)(1)(B), Oct. 13, 1994, 108 Stat. 3342; Pub. L. 106–49, §2(a), Aug. 17, 1999, 113 Stat. 231. Aug. 24, 1935, ch. 642, § 4, 49 Stat. 794.
3131(b)	40:270a(a) (words before cl. (1) related to furnishing bond), (1), (2). 40:270d–1.	Aug. 24, 1935, ch. 642, § 5, as added Pub. L. 103–355, title IV, §4104(b)(1)(A), Oct. 13, 1994, 108 Stat. 3341.
3131(c)	40:270a(d).	Aug. 24, 1935, ch. 642, §1(d), as added Pub. L. 89–719, title I, §105(b), Nov. 2, 1966, 80 Stat. 1139.
3131(d)	40:270a(b).	
3131(e)	40:270a(c).	

In subsection (a), the text of 40:270d is omitted because of 1:1.

In subsections (b) and (c), the words “or sureties” are omitted because of 1:1.

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (c)(2), is classified to Title 26, Internal Revenue Code.

Editorial Notes

AMENDMENTS

2006—Subsec. (e). Pub. L. 109–284 substituted “To” for “to” in heading.

§ 3132. Alternatives to payment bonds provided by Federal Acquisition Regulation

(a) IN GENERAL.—The Federal Acquisition Regulation shall provide alternatives to payment bonds as payment protections for suppliers of labor and materials under contracts referred to in section 3131(a) of this title that are more than \$25,000 and not more than \$100,000.

(b) RESPONSIBILITIES OF CONTRACTING OFFICER.—The contracting officer for a contract shall—

- (1) select, from among the payment protections provided for in the Federal Acquisition Regulation pursuant to subsection (a), one or more payment protections which the offeror awarded the contract is to submit to the Federal Government for the protection of suppliers of labor and materials for the contract; and

- (2) specify in the solicitation of offers for the contract the payment protections selected.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1148.)

HISTORICAL AND REVISION NOTES

Revised Section	Source (U.S. Code)	Source (Statutes at Large)
3132	40:270a note.	Pub. L. 103–355, title IV, §4104(b)(2), Oct. 13, 1994, 108 Stat. 3342.

§ 3133. Rights of persons furnishing labor or material

(a) RIGHT OF PERSON FURNISHING LABOR OR MATERIAL TO COPY OF BOND.—The department secretary or agency head of the contracting agency shall furnish a certified copy of a payment bond and the contract for which it was given to any person applying for a copy who submits an affidavit that the person has supplied labor or material for work described in the contract and payment for the work has not been made or that the person is being sued on the bond. The copy is prima facie evidence of the contents, execution, and delivery of the original. Applicants shall pay any fees the department secretary or agency head of the contracting agency fixes to cover the cost of preparing the certified copy.

(b) RIGHT TO BRING A CIVIL ACTION.—

(1) IN GENERAL.—Every person that has furnished labor or material in carrying out work provided for in a contract for which a payment bond is furnished under section 3131 of this title and that has not been paid in full within 90 days after the day on which the person did or performed the last of the labor or furnished or supplied the material for which the claim is made may bring a civil action on the payment bond for the amount unpaid at the time the civil action is brought and may prosecute the action to final execution and judgment for the amount due.

(2) PERSON HAVING DIRECT CONTRACTUAL RELATIONSHIP WITH A SUBCONTRACTOR.—A person having a direct contractual relationship with a subcontractor but no contractual relationship, express or implied, with the contractor furnishing the payment bond may bring a civil action on the payment bond on giving written notice to the contractor within 90 days from the date on which the person did or performed the last of the labor or furnished or supplied the last of the material for which the claim is made. The action must state with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. The notice shall be served—

(A) by any means that provides written, third-party verification of delivery to the contractor at any place the contractor maintains an office or conducts business or at the contractor’s residence; or

(B) in any manner in which the United States marshal of the district in which the public improvement is situated by law may serve summons.

(3) VENUE.—A civil action brought under this subsection must be brought—