28.203-1 Acceptability of individual sureties.

(a)An individual *surety* is acceptable for all types of *bonds* except position schedule *bonds*. Assets pledged by an individual *surety shall* meet the eligibility requirements of Treasury's Bureau of the Fiscal Service. Per 31 U.S.C. 9310, individual *sureties must* pledge eligible obligations, which Treasury refers to as acceptable collateral or eligible collateral. A list of acceptable assets, entitled "Acceptable Collateral for 31 CFR part 225," *may* be accessed by going to https://www.treasurydirect.gov/files/laws-and-regulations/collateral-programs/2018-final-225-list-of-acceptable-collateral.pdf and clicking on "Acceptable Collateral for 31 CFR part 225".

(b)

(1)An individual *surety shall* execute the *bond* (*e.g.*, *bid bond* (SF 24), performance *bond* (SF 25), payment *bond* (SF 25A)).

(2)The net adjusted value of unencumbered assets is their market value minus the margin. The margin tables are available at www.treasurydirect.gov. The net adjusted value of unencumbered assets pledged by the individual *surety must* equal or exceed the penal amount (*i.e.*, face value) of each *bond*.

(3)The individual *surety shall* execute the SF 28, Affidavit of Individual *Surety*, and provide a security interest. One individual *surety* is adequate support for a *bond*, provided the net adjusted value of unencumbered assets pledged by that individual *surety* equals or exceeds the amount of the *bond*.

(4)An *offeror* or contractor *may* submit up to three individual *sureties* for each *bond*, in which case the net adjusted value of the pledged unencumbered assets, when combined, *must* equal or exceed the penal amount of the *bond*. Each individual *surety* is jointly and severally liable to the extent of the penal amount of the *bond*.

(c)Using the information from the SF 28 submitted by the *offeror* or contractor, the *contracting officer shall* notify the Treasury's collateral operations support team by email at BMT@fiscal.treasury.gov or by phone at 888-568-7343, of the individual *surety*, the assets to be pledged, and the amount necessary to cover the individual *surety bond*, *i.e.*, the required amount to be collateralized. Treasury will advise the *contracting officer* whether the assets are eligible to be pledged, consistent with 28.203-1(a), and of the valuation of the assets offered to be pledged, consistent with the valuation standards in 28.203-1(b)(2). If after 3 business days the *contracting officer* has not received a response from Treasury, the *contracting officer may* seek assistance from the Director, Bank Policy and Oversight, at 202-504-3502. The *contracting officer shall* determine whether the individual *surety bond* is acceptable as to the amount necessary to cover the individual *surety bond* based on the asset eligibility and valuation assessment from Treasury. The *contracting officer shall* notify both the *offeror* or contractor and the individual *surety* of this determination.

(d)If the *contracting officer* determines the individual *surety* is acceptable, the *contracting officer shall* request the Treasury's collateral operations support team set up the necessary individual *surety* pledged asset collateral account.

(e)If the *contracting officer* determines that no individual *surety* in support of a *bid guarantee* is

acceptable, the *offeror* utilizing the individual *surety shall* be rejected as nonresponsible, except as provided in 28.101-4. A finding of nonresponsibility based on unacceptability of an individual *surety*, need not be referred to the Small Business Administration for a Certificate of Competency. (See 19.602-1(a) and 61 Comp. Gen. 456 (1982).)

(f)If a contractor submits an unacceptable individual *surety*, or one that Treasury could not assess the asset eligibility and valuation within a reasonable time, then the *contracting officer may* permit the contractor to substitute an acceptable *surety* within a reasonable time.

(g)Evidence of possible criminal or fraudulent activities by an individual *surety shall* be referred to the appropriate agency official in accordance with agency procedures.

Parent topic: 28.203 Individual Sureties.