PART 1328 - BONDS AND INSURANCE

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Subpart 1328.1 - Bonds and Other Financial Protections

1328.101 Bid guarantees.

1328.101-1 Policy on use.

1328.102 Waiver of performance and payment bonds for contracts involving the construction, alteration, and repair of NOAA's fleet of vessels.

1328.102-1 Waiver policy.

1328.102-2 Waiver authority.

1328.102-3 Contract clause.

1328.105 Other types of bonds.

1328.106 Administration.

1328.106-2 Substitution of surety bonds.

1328.106-6 Furnishing information.

Subpart 1328.2 - Sureties and Other Security for Bonds

1328.203 Acceptability of individual sureties.

1328.203-7 Exclusion of individual sureties.

Subpart 1328.3 - Insurance

1328.305 Overseas workers' compensation and war-hazard insurance.

1328.310 Contract clause for work on a Government installation.

1328.310-70 Solicitation provisions and contract clauses.

Parent topic: SUBCHAPTER E - GENERAL CONTRACTING REQUIREMENTS

Subpart 1328.1 - Bonds and Other Financial Protections

1328.101 Bid guarantees.

1328.101-1 Policy on use.

The designee authorized to make a class waiver for the requirement to obtain a bid guarantee when a performance bond or a performance and payment bond is required is set forth in CAM 1301.70.

1328.102 Waiver of performance and payment bonds for contracts involving the construction, alteration, and repair of NOAA's fleet of vessels.

1328.102-1 Waiver policy.

(a) Pursuant to the authority vested in the Secretary of Commerce, the requirements of 40 U.S.C. 3131 through 3133 may be waived by virtue of the authority vested in him or her pursuant to the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113-235, 128 Stat. 2130, Div. B, Title I, Sec. 111 (2014), with respect to contracts for the repair, alteration, and construction of NOAA's hydrographic survey, oceanographic research, and fisheries survey vessels operated by NOAA Office of Marine and Aviation Operations in the Atlantic and Pacific regions including the Pacific Islands. The Department's policy and procedures for use of the waiver authority is set forth in CAM 1328.102.

(b) Contracting officers are required to consider any unusual circumstances that may arise in which either payment or performance bonds, or both, will be advantageous to the Government in connection with these contracts prior to issuing solicitations.

1328.102-2 Waiver authority.

The designee authorized to approve bond waivers is set forth in CAM 1328.102.

1328.102-3 Contract clause.

The contracting officer shall insert the clause at 1352.228-77, *Contractor Assurance of Subcontractor Payments,* in solicitations and contracts when performance and payment bonds are waived.

1328.105 Other types of bonds.

The designee authorized to approve using other types of bonds in connection with acquiring particular supplies or services is set forth in CAM 1301.70.

1328.106 Administration.

1328.106-2 Substitution of surety bonds.

The designee authorized to approve substituting a new surety bond for the previously approved original bond is set forth in CAM 1301.70.

1328.106-6 Furnishing information.

When a payment bond has been provided for a contract, the designee authorized to furnish a certified copy of the bond and the contract to any person who makes a proper request is set forth in CAM 1301.70.

Subpart 1328.2 - Sureties and Other Security for Bonds

1328.203 Acceptability of individual sureties.

(a) Contracting officers shall obtain the opinion of the Procurement Counsel as to the adequacy of the documents pledging the assets of an individual surety prior to accepting bid guarantee and payment and performance bonds.

(b) Evidence of possible criminal or fraudulent activities by an individual surety shall be referred to the DOC Office of Inspector General. Policies and procedures for the initiation and conduct of investigations by the Office of Inspector General are prescribed in DAO 207-10, *Inspector General Investigations.*

1328.203-7 Exclusion of individual sureties.

The designee authorized to exclude an individual from acting as a surety on bonds submitted by offerors on procurements by the executive branch of the Federal Government is set forth in CAM 1301.70.

Subpart 1328.3 - Insurance

1328.305 Overseas workers' compensation and war-hazard insurance.

The designee authorized to recommend a waiver to the Secretary of Labor is set forth in CAM 1301.70.

1328.310 Contract clause for work on a Government installation.

1328.310-70 Solicitation provisions and contract clauses.

(a) Insert clause 1352.228-70, *Insurance Coverage,* in all contracts when:

(1) Government property is involved;

(2) The contract amount is expected to be over the simplified acquisition threshold, and

(3) The contract will require work on a Government installation

(b)

(1) The clause is not required in fixed-price solicitations and contracts if:

(i) Only a small amount of work is required on the Government installation (*e.g.*, a few brief visits per month); or

(ii) All the work on the Government installation is to be performed outside the United States, its possessions and Puerto Rico.

(2) The contracting officer may increase the dollar limits established in the clause when it is determined to be in the best interest of the Government. Prior to increasing the dollar limits the contracting officer shall seek the advice of Procurement Counsel.

(c) Insert clause 1352.228-71, *Deductibles Under Required Insurance Coverage - Cost-Reimbursement*, in all cost-reimbursement contracts when the clause at 1352.228-70, *Insurance Coverage*, is used.

(d) Insert clause 1352.228-72, *Deductibles Under Required Insurance Coverage - Fixed Price*, in all fixed-price contracts when the clause at 1352.228-70, *Insurance Coverage*, is used.

(e) Insert clauses 1352.228-73 through 1352.228-75, unless otherwise indicated by the specific instructions for their use below, in any contract for the lease of aircraft.

(f) Insert clause 1252.228-73, *Loss of or Damage to Leased Aircraft*, in any contract for the lease of aircraft, except in the following circumstances:

(1) When the hourly rental rate does not exceed $250 and the total rental cost for any single transaction is not in excess of $2,500:

(2) When the cost of hull insurance does not exceed 10 percent of the contract rate; or

(3) When the lessor's insurer does not grant a credit for uninsured hours, thereby preventing the lessor from granting the same to the Government.

(g) Insert clause 1352.228-74, *Fair Market Value of Aircraft*, in all aircraft lease/rentals.

(h) The contracting officer shall insert the clause at 1352.228-75, *Risk and Indemnities*, in any contract for the lease of aircraft when the Government will have exclusive use of the aircraft for a period of less than thirty days.

(i) Insert clause 1352.228-76, *Approval of Group Insurance Plans*, in all cost reimbursable contracts.

(j) The contractor shall submit the plan to the CO for approval under cost-reimbursement contracts, before buying insurance under a group insurance plan. Any change in benefits provided under an approved plan that can reasonably be expected to increase significantly the cost to the Government shall require similar approval.