Subpart 1228.1—Bonds and Other Financial Protections

Parent topic: PART 1228—BONDS AND INSURANCE

1228.106 Administration.

1228.106-470 Contract clause-notification of payment bond protection.

The contracting officer must insert the clause at 1252.228–74, Notification of Payment Bond Protection, in solicitations and contracts when payment bonds are required.

1228.106-6 Furnishing information.

(c) When furnishing a copy of a payment bond and contract in accordance with FAR 28.106–6(b), the requirement for a copy of the contract may be satisfied by furnishing a pdf of the contract's first pages which show the contract number and date, the contractor's name and signature, the contracting officer's signature, and the description of the contract work. The contracting officer furnishing the copies shall place the statement “Certified to be a true and correct copy” followed by his/her signature, title and name of the Operating Administration using an authenticated electronic signature. The fee for furnishing the requested certified copies shall be determined in accordance with the DOT Freedom of Information Act regulation, 49 CFR part 7, and 1224.203.

1228.106-70 Execution and administration of bonds.

(a) The contracting officer shall notify the surety within 30 days of the contractor's failure to perform in accordance with the terms of the contract.

(b) When a partnership is a principal on a bond, the names of all the members of the firm shall be listed in the bond following the name of the firm, and the phrase “a partnership composed of.” If a principal is a corporation, the state of incorporation must also appear on the bond.

(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.

1228.106-71 Performance and payment bonds for certain contracts.

1228.106-7100 Waiver.

Pursuant to the authority vested in the Secretary of Transportation by the Bond statute at 40 U.S.C. chapter 31, subchapter III, Bonds (historically known as the Miller Act), the requirements of 40 U.S.C. 3131 *et seq.* are waived, to the extent authorized in accordance with 40 U.S.C. 3134(b).

1228.106-7101 Exception.

A performance and payment bond for the contracts described under 1228.106–7100 may be advantageous in view of unusual circumstances arising in connection with such contracts. Requests for the authority to include the requirement for either a performance or payment bond, or both in the contracts described under 1228.106–7100 shall be submitted by the contracting officer to the HCA, before a solicitation is issued.