

Department of Transportation & Public Facilities

CONTRACTS OFFICER BULLETIN¹

Issued: September 2020

By, Chief Contracts Officer

No. 20-008

CONTRACTORS' BONDS

With regard to a construction contract that requires contractors' bonds under AS 30.25.010ⁱ, the Department's policy is to require a performance bond and a payment bond in the sum of 100% of the total amount payable by the terms of the contract.

However, if supported by a contracting officer's written determination that the State's best interest is served on a particular project, the performance and payment bonds may be in a sum less than 100%. In no case shall bonds be less than the sums required under AS 36.25.010.

This policy applies to all competitive, alternate, and exempt procurement methods for a construction contract that requires bonds under 36.25.010. The amount of the required bonds shall be identified in solicitation documents.

ⁱⁱ AS 36.25.010. Bonds of contractors for public buildings or works.

- (a) Except as provided in AS 44.33.300, before a contract exceeding \$100,000 for the construction, alteration, or repair of a public building or public work of the state or a political subdivision of the state is awarded to a general or specialty contractor, the contractor shall furnish to the state or a political subdivision of the state the following bonds, which become binding upon the award of the contract to that contractor:
 - 1) a performance bond with a corporate surety qualified to do business in the state, or at least two individual sureties who shall each justify in a sum equal to the amount of the bond; the amount of the performance bond shall be equivalent to the amount of the payment bond;
 - 2) a payment bond with a corporate surety qualified to do business in the state, or at least two individual sureties who shall each justify in a sum equal to the amount of the bond for the protection of all persons who supply labor and material in the prosecution of the work provided for in the contract; when the total amount payable by the terms of the contract is not more than \$1,000,000, the payment bond shall be in a sum of one-half the total amount payable by the terms of the contract; when the total amount payable by the terms of the contract is more than \$1,000,000 and not more than \$5,000,000, the payment bond shall be in a sum of 40 percent of the total amount payable by the terms of the contract; when the total amount payable by the terms of the contract is more than \$5,000,000, the payment bond shall be in the sum of \$2,500,000.
- (b) 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 (a) of this section.
- (c) When no payment bond has been furnished, the contracting department may not approve final payments to the contractor until the contractor files a written certification that all persons who supplied labor or material in the prosecution of the work provided for in the contract have been paid.

¹ **CONTRACTS OFFICER BULLETINS** - From time to time, it is expedient to issue information, guidance, or directives on certain construction contract matters. Such communications can best be accomplished through the medium of 'bulletins'. These bulletins are "interpretive" in nature and serve to inform and direct. They reflect the department's policy on the issue being addressed. If a conflict between a bulletin and a statute or a formally adopted regulation is found to exist, the law, regulation takes precedence [ref. AS 44.62.640(a)(3)]. Comments or suggestions are appreciated and can be directed to the Chief Contracts Officer.