
**AUGUSTA COUNTY SERVICE AUTHORITY
OPERATING PROCEDURES AND POLICY MANUAL**

Approved By: Board of Directors
Effective Date: January 1, 2017

Procurement
Policy No. 11.3
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Bonds and Insurance Requirements for Contracts

1.0 Bonds

1.1 Bonding Requirements. In some instances, to reduce the Authority's financial risk in the event a contractor fails to perform or defaults on a contract, the Authority may require bonding.

1.1.1 Except in cases of emergency, all bids or proposals for construction contracts in excess of \$100,000 shall be accompanied by a bid bond from a surety company selected by the bidder that is legally authorized to do business in Virginia, as a guarantee that if the contract is awarded to such bidder, that bidder will enter into the contract for the work specified in the bid. The amount of the bid bond shall not exceed five percent of the amount bid (*Code of Virginia, § 2.2-4336*).

1.1.2 No forfeiture under a bid bond shall exceed the lesser of (i) the difference between the bid for which the bond was written and the next low bid, or (ii) the face amount of the bid bond.

1.1.3 Nothing in this section shall preclude the Authority from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$100,000.

1.1.4 Nothing in this section shall preclude the Authority from requiring bonds for construction contracts anticipated to be less than the VPPA limits.

1.2 The five (5) types of bonds that are frequently used in contracts to procure goods and services, and their definitions, are as follows:

1.2.1 A **bid bond** guarantees that the bidder will enter into a contract if selected as the lowest responsive and responsible bidder. If a bidder does not accept the award, the bid bond is forfeited. *VPPA, §2.2-4336(A)* require that, except in cases of an emergency, all bids or proposals for construction contracts in excess of \$500,000 be accompanied by a bid bond. The amount of the bid bond will not exceed five percent (5%) of the total contract. Bidders shall submit the bid bond with their bid. If the bid bond is not submitted with the bid, the Bidder is non-responsive.

For non-transportation construction contracts in excess of \$100,000 but less than \$500,000, where the bid bond requirements are waived, prospective contractors shall be prequalified for each individual project in accordance with §2.2-4317.

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- 1.2.2** A **performance bond** guarantees that a contractor will perform the contract in accordance with the contract terms. The surety who issued the bond may complete either the contract or pay damages up to the bond limit. This bond is used most frequently in construction contracts. *VPPA*, §2.2-4337(A) requires a performance bond in the sum of the contract amount for all public construction contracts exceeding \$500,000.

Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

No action against the surety on a performance bond shall be brought unless brought within one year after (i) completion of the contract, including the expiration of all warranties and guarantees, or (ii) discovery of the defect or breach of warranty, if the action be for such.

All performance bonds and payment bonds (regardless of the form) shall remain effective until at least one year after final completion of the secured work.

- 1.2.3** A **contract bond**, similar to a performance bond, guarantees the contractor will perform pursuant to the terms and conditions of the contract. While performance bonds are used primarily for construction projects, contract bonds are used for service contracts such as microcomputer purchases, grass cutting services, janitorial services, and computer programming services.

- 1.2.4** A **payment bond** guarantees the contractor will pay all suppliers and subcontractors who assist in the performance of the work. *VPPA*, §2.2-4337 (A) requires a payment bond in the sum of the contract for any construction contract exceeding \$500,000.

Nothing in this section shall preclude such contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts which are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

All performance bonds and payment bonds (regardless of the form) shall remain effective until at least one year after final completion of the secured work.

- 1.2.5** A **fidelity bond** is similar to insurance policy and guarantees against losses that may result from proven acts of dishonesty on the part of the contractor's employees. Fidelity bonds are

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often required in service contracts when the contractor's employees will handle cash or are exposed to opportunities for theft.

- 1.3 Bonds on Non-Construction Contracts.** The Authority may require a payment bond, or performance bond for contracts for goods or services if provided in the Invitation to Bid or Request for Proposal.
- 1.4 Alternative Forms of Security.** A certified check or cash escrow may be accepted in lieu of a bid, payment, or performance bond. If approved by the Authority, a bidder may furnish a personal bond, property bond, or bank or savings and loan association's irrevocable letter of credit in the face amount required for the bid, payment, or performance bond. Approval shall be granted only upon a determination that the alternative form of security proffered affords protection to the Authority equivalent to a corporate surety's bond.
- 1.5** All bonds shall be payable to the Augusta County Service Authority, and shall be in a form acceptable to the Authority.
- 1.6** Each of the bonds shall be filed with the Purchasing Officer.
- 2.0 Insurance.** Whenever work is to be performed on behalf of the Authority, the contractor shall be required to have Workers' Compensation, Employer's Liability, Commercial General Liability and Automobile Liability, Commercial Umbrella Liability and in certain types of programs Professional Liability/Errors and Omissions insurance coverage. In addition, for construction contracts, if any subcontractors are involved, subcontractors shall also be required to have workers' compensation insurance in accordance with *Code of Virginia § 2.2-4332* and 65.2-800 et.seq.
- 2.1** Stipulated insurance must be obtained prior to commencing work and be maintained during the entire term of the contract. At a minimum, the contractor must certify to the Authority that they possess the appropriate insurance coverage and documentation concerning the contractor's insurance shall be included in the procurement file. Certification shall be in writing when written quotes are required. The Authority may require a certificate of insurance or a policy endorsement to be furnished prior to commencement of work and at anytime during contract performance.
- 2.1.1** Automobile Liability \$1,000,000 each occurrence
- 2.1.2** Commercial Liability \$1,000,000 each occurrence
- 2.1.3** Commercial Umbrella Liability \$1,000,000
- 2.1.3.1** Commercial Liability coverages will include Premises-Operations, Products-Completed Operations, Independent Contractors, Contractual, Explosion, Collapse and Underground.

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2.2 Workers' Compensation. Bidder/Contractor shall provide and maintain Workers' Compensation insurance as required by Virginia statute for all employees, with Employer's Liability limits of :

2.2.1 \$100,000 Each Accident

2.2.2 \$500,000 Policy Limit

2.2.3 \$100,000 Each Employee

2.3 Proof of Insurance. The bidder/Contractor shall furnish the Authority with certificates of insurance showing the type, amount, class of operations covered, effective dates and date of expiration of policies, including designation of the Authority as an additional named insured. In the event that a contract will extend for a period greater than 90 days, then the bidder/Contractor must furnish an endorsement to the policy identifying the Authority as an additional named insured, with a copy of the policy endorsement being sent to:

Purchasing Officer
Augusta County Service Authority
P.O. Box 859
Verona, VA 24482.