

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

PART 3527—PATENTS, DATA AND COPYRIGHTS

AUTHORITY: 40 U.S.C. 486(c).

Subpart 3527.3—Patent Rights Under Government Contracts

3527.304-3 Contracts for construction work or architect-engineer services.

(b) The contracting officer shall insert the clause at 3552.227-70, Government Rights, in all solicitations and contracts for architect-engineer services or for construction involving architect-engineer services, except those that call for or can be expected to involve only “standard types of construction” to be built by previously developed equipment, methods, and processes. (See FAR 27.304-3(b) for the meaning of the term “standard types of construction”.)

[55 FR 7656, Mar. 2, 1990]

PART 3528—BONDS AND INSURANCE

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AUTHORITY: 40 U.S.C. 486(c); Article XVIII of the Agreement in Implementation of Article III of the Panama Canal Treaty of 1977.

SOURCE: 55 FR 7656, Mar. 2, 1990, unless otherwise noted.

Subpart 3528.1—Bonds

3528.100 Scope of subpart.

Bid or proposal guarantees, performance bonds, and payment bonds in Panama Canal Commission acquisitions may be required in contracts for construction as that term is defined at FAR 36.102, and in contracts for other than construction as explained at FAR 28.103.

3528.101 Bid or proposal guarantees.

3528.101-3 Contract clauses.

(a) When a guarantee is required, the contracting officer shall insert the clause at 3552.228-70, Bid Guarantee Amount, in sealed bid solicitations and contracts, or the clause at 3552.228-75, Proposal Guarantee, in negotiated solicitations and contracts, as applicable.

(b) If the contract is to be negotiated, the contracting officer shall insert the clause at 3552.228-75, Proposal Guarantee, in lieu of the bid guarantee clause at FAR 52.228-1.

3528.102 Performance and payment bonds for construction contracts.

3528.102-1 General.

(a) The Miller Act (40 U.S.C. 270a-270f) requires performance and payment bonds for any construction contract (including contracts for alteration, or repair of any public building or public work) exceeding \$25,000, except that this requirement may be waived by the contracting officer for work to be performed in a foreign country upon the finding contemplated in FAR 28.102-1(a)(1). It has been determined by the Panama Canal Commission General Counsel, however, that the contracting officer may also establish requirements for such bonds for lesser dollar value contracts when it

has been determined that the financial protection against damages is in the best interests of the Government. Accordingly, the provisions of 3528.102-3 regarding solicitation requirements must be followed.

3528.102-3 Solicitation requirements.

When performance or payment bonds are required, the contracting officer shall insert the clauses at 3552.228-71, Bonds and Insurance, and 3552.228-72, Bonds, in the solicitation and contract.

3528.103 Performance and payment bonds for other than construction contracts.

3528.103-2 Performance bonds.

(a) Contracts for high dollar acquisitions of vital supplies, such as cargo lot shipments of Bunker C fuel oil, is another situation that may warrant a performance bond.

3528.103-3 Payment bonds.

(a) A payment bond may be considered to be in the Government's interest when substantial progress payments are made before delivery of end items starts (for example, in the acquisition of tugboats and dredges).

3528.103-70 Contract clauses.

(a) *Performance bonds.* When a performance bond for other than construction contracts is required pursuant to FAR 28.103-2(a), but a payment bond is not required, the contracting officer shall insert the clause at 3552.228-76, Performance Bond, in all such solicitations and contracts. If a payment bond is also required (see FAR 28.103-3(a) and 3528.103-3(a)), the contracting officer shall insert the clause at 3552.228-77, Performance and Payment Bonds, in lieu of clause 3552.228-76.

(b) *Payment bonds.* When a payment bond for other than construction contracts is required pursuant to FAR 28.103-3(a) and 3528.103-3(a), the contracting officer shall insert the clause at 3552.228-77, Performance and Payment Bonds, in all such solicitations and contracts.

Subpart 3528.2—Sureties

3528.201 Requirements for sureties.

(a) In addition to those acceptable forms of security enumerated in FAR 28.201, contracting officers may accept such Panamanian sureties as may be approved in accordance with 3528.202(b).

(b) Contracting officers may not preclude the use by any offeror of any type of security or surety permitted by FAR subpart 28.2 or this subpart.

[55 FR 7656, Mar. 2, 1990; 55 FR 38331, Sept. 18, 1990]

3528.202 Acceptability of corporate sureties.

(b) The authority delegated to contracting officers in FAR 28.202(b) to determine the acceptability of sureties not appearing on Treasury Department Circular 570 for contracts performed in a foreign country is vested in the Chief Financial Officer of the Panama Canal Commission. The procedure for approving such sureties is prescribed in the Commission's Financial Systems Manual 99.333.

[55 FR 7656, Mar. 2, 1990. Redesignated and amended at 55 FR 38331, Sept. 18, 1990]

3528.202-70 Corporate seals.

(a) In the event that a "Corporate Seal," as required in the instructions for preparation of any standard form or document, is not used due to the dictates of custom, practice, or law within Panama or other foreign countries, such bonds shall be accepted provided the contracting officer is satisfied, with the concurrence of legal counsel, that the person signing the bond is authorized to bind the surety (see FAR 4.102).

(b) In the case of acquisitions conducted using the sealed bid method described in FAR part 14, bids which do not include required bid bonds must be rejected as nonresponsive except as provided in FAR 28.101-4. See also FAR 14.405 regarding minor informalities or irregularities in bids.