

28.204-2

(or branch with requisite facilities), or other depository designated for that purpose by the Secretary of the Treasury, under procedures prescribed by the agency concerned and Treasury Department Circular No. 154 (exception: The contracting officer shall deposit all bonds and notes received in the District of Columbia with the Treasurer of the United States).

[48 FR 42286, Sept. 19, 1983. Redesignated and amended at 54 FR 48986, 48989, Nov. 28, 1989]

28.204-2 Certified or cashiers checks, bank drafts, money orders, or currency.

Any person required to furnish a bond has an option to furnish a certified or cashier's check, bank draft, Post Office money order, or currency, in an amount equal to the penal sum of the bond, instead of furnishing surety or sureties on the bonds. Those furnishing checks, drafts, or money orders shall draw them to the order of the appropriate Federal agency.

[48 FR 42286, Sept. 19, 1983. Redesignated at 54 FR 48986, Nov. 28, 1989]

28.204-3 Irrevocable letter of credit (ILC).

(a) Any person required to furnish a bond has the option to furnish a bond secured by an ILC in an amount equal to the penal sum required to be secured (see 28.204). A separate ILC is required for each bond.

(b) The ILC shall be irrevocable, require presentation of no document other than a written demand and the ILC (and letter of confirmation, if any), expire only as provided in paragraph (f) of this subsection, and be issued/confirmed by an acceptable federally insured financial institution as provided in paragraph (g) of this subsection.

(c) To draw on the ILC, the contracting officer shall use the sight draft set forth in the clause at 52.228-14, and present it with the ILC (including letter of confirmation, if any) to the issuing financial institution or the confirming financial institution (if any).

(d) If the contractor does not furnish an acceptable replacement ILC, or other acceptable substitute, at least 30 days before an ILC's scheduled expira-

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tion, the contracting officer shall immediately draw on the ILC.

(e) If, after the period of performance of a contract where ILCs are used to support payment bonds, there are outstanding claims against the payment bond, the contracting officer shall draw on the ILC prior to the expiration date of the ILC to cover these claims.

(f) The period for which financial security is required shall be as follows:

(1) If used as a bid guarantee, the ILC should expire no earlier than 60 days after the close of the bid acceptance period.

(2) If used as an alternative to corporate or individual sureties as security for a performance or payment bond, the offeror/contractor may submit an ILC with an initial expiration date estimated to cover the entire period for which financial security is required or an ILC with an initial expiration date that is a minimum period of one year from the date of issuance. The ILC shall provide that, unless the issuer provides the beneficiary written notice of non-renewal at least 60 days in advance of the current expiration date, the ILC is automatically extended without amendment for one year from the expiration date, or any future expiration date, until the period of required coverage is completed and the contracting officer provides the financial institution with a written statement waiving the right to payment. The period of required coverage shall be:

(i) For contracts subject to the Miller Act, the later of—

(A) One year following the expected date of final payment;

(B) For performance bonds only, until completion of any warranty period; or

(C) For payment bonds only, until resolution of all claims filed against the payment bond during the one-year period following final payment.

(ii) For contracts not subject to the Miller Act, the later of—

(A) 90 days following final payment; or

(B) For performance bonds only, until completion of any warranty period.

(g) Only federally insured financial institutions rated investment grade or